



# SPOKANE POLICE DEPARTMENT

CHIEF OF POLICE

CRAIG N. MEIDL

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## Notice to the Washington Attorney General re: the Adoption of Use of Force Policies Consistent with RCW 10.120.020

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November 17, 2022

As required by RCW 10.120.030, I certify that the Spokane Police Department (SPD) has adopted policies consistent with the model policies for use of force and de-escalation tactics, and that they are consistent, and in compliance with, RCW 10.120.020. Copies of these policies have been submitted to the attorney general.

The Spokane Police Department began updating its use of force policies in anticipation of numerous revisions to Washington law that went into effect on July 25<sup>th</sup> of 2021 relating to law enforcement and the use of force. At that time, a cadre of uniformed and civilian personnel within the Spokane Police Department came together and worked tirelessly in conjunction with the City's legal department to ensure that SPD policies conformed with the 2021 state law changes. The result of their copious review was a thorough revision of policy that accurately reflected new legislative mandates, particularly pertaining to reasonable care and de-escalation, as well as new prohibitions, such as concerning the use of the lateral neck restraint. Through these efforts, Spokane police officers were presented with new policies and given thorough and timely training regarding these important legislative changes.

Thereafter, the work to revise SPD policies continued through the 2022 legislative session as further revisions were made to Chapter 10.120 RCW. The policies that SPD has submitted with this letter is the cumulative product of this work. They are not a verbatim reiteration of the model policy, but they align in every meaningful sense to incorporate the elements of RCW 10.120.020 and they adopt key recommendations of the Attorney General, such as regarding the use of spit guards. Moreover, SPD's policies are founded on the principle that officers have a responsibility to protect human life and, like the model policy, its use of force policies provide clarity concerning the permissible uses of physical force as detailed in RCW 10.120.020. They also promote critical decision-making, a key component of their training, by directing officers to use physical force only when necessary and only in the amount that is proportional to the threat and necessary to serve a law enforcement objective. Additionally, Spokane's policies direct officers to use all available and appropriate de-escalation techniques when possible, and they emphasize the use of reasonable care in the decision to use physical force and in using physical force. These are all principles derived from RCW 10.120.020 and which directly align with the model policy.



In summation, while SPD's policy is not identical to the model policy, we believe it is consistent therewith, and that its content is substantially similar by its restatement of RCW 10.120.020. We will continue to evaluate these policies but are proud of the work that has gone into them and are confident that our officers appreciate the significance of their impact on public safety and community trust.

A handwritten signature in black ink, appearing to read "C. Meidl". The signature is stylized with a large "C" and a long horizontal stroke.

Craig Meidl  
Chief of Police  
Spokane Police Department

## De-Escalation

### 300.1 PURPOSE AND SCOPE

This policy provides the Spokane Police Department's core principles relating to the use of de-escalation tactics. Police officers have been delegated the responsibility to protect life and property and apprehend criminal offenders. The Department is committed to accomplishing this mission with respect and a minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, when circumstances permit. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and avoid the application of unnecessary force.

When safe and reasonable under the totality of the circumstances, and time and circumstances permit, officers shall use de-escalation tactics in an effort to reduce the need for force or to minimize the level of force needed.

### 300.2 DEFINITIONS

**De-escalation** - "De-escalation tactics" refer to actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident. Depending on the circumstances, "de-escalation tactics" may include, but are not limited to: Using clear instructions and verbal persuasion; attempting to slow down or stabilize the situation so that more time, options, and resources are available to resolve the incident; creating physical distance by employing tactical repositioning to maintain the benefit of time, distance, and cover; when there are multiple officers, designating one officer to communicate in order to avoid competing commands; requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder or other behavioral health professional, or back-up officers. (RCW 10.120.010(1))

### 300.3 DE-ESCALATION

Officers shall, when possible, use all de-escalation tactics that are available and appropriate under the circumstances before using any physical force. De-escalation tactics are used in an effort to reduce the need for, or degree of, force necessary to safely resolve a situation. It is recognized that every situation is unique and fact-specific; not all tactics are appropriate in every circumstance. It is not required that officers use every technique below during every incident. The over-arching objective of de-escalation is to make a situation less dangerous for the public, the officers, and the subject involved. The subject's actions, type of weapon(s), presence of hostages, and overall risk to the general public and the involved officers will be important considerations in determining which tactics are appropriate in a particular scenario.

- A. Whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply such as:
  - 1. Mental impairment
  - 2. Developmental disability

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3. Physical limitation
4. Language barrier
- B. The following are considered de-escalation tactics:
  1. Allow subjects the opportunity to submit to arrest before force is used.
  2. Attempt to isolate and contain the subject. When it is safe and reasonable to do so, officers should make advantageous use of:
    - (a) Positioning, distance, concealment and cover by isolating and containing a subject.
    - (b) Continuously evaluating the officer's positioning, subject's actions, and available force options.
    - (c) Placing barriers between an uncooperative subject and an officer.
  3. Create time and distance from the subject by creating a buffer zone (reactionary gap) and utilize cover to avoid creating an imminent threat that may require the use of force:
    - (a) In order to use time as a tactic, a zone of safety should be established for the security of responding members and the public.
    - (b) Using time as a tactic may:
      1. Permit the de-escalation of the subject's behavior and create a window of opportunity to use a lower level of force to resolve the situation.
      2. Allow for continued communication with the subject and the adjustment of the verbal control techniques employed by the members.
  4. Request the arrival of specialty units / additional resources, such as the Crisis Intervention Team (CIT) trained officers, Crisis/Hostage Negotiation Team, mental health professionals, or extended range impact weapons.
  5. Communication from a safe position intended to gain the subject's compliance using:
    - (a) Verbal persuasion
    - (b) Advisements
    - (c) Warnings
  6. Avoidance of physical confrontation, unless necessary.
  7. Continue de-escalation techniques as reasonably necessary to resolve the incident.
    - (a) An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall be balanced against the facts of the incident.

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8. Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject.

## Use of Force

### 301.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of force. Police officers have been delegated the responsibility to protect life and property and to apprehend criminal offenders. The Department is committed to accomplishing this mission with respect and a minimal reliance on the use of force, and by using, whenever possible, rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force.

It is recognized, however, that in certain situations, the use of force may be unavoidable. While there is no way to specify the exact amount or type of force to be applied in every situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner. All physical force used will be reasonable based on the totality of the circumstances.

### 301.2 DEFINITIONS

Definitions related to this policy include:

- A. **Active Resistance** – Use of physical force or mechanical resistance in achieving and/or maintaining noncompliance.
- B. **Assaultive** - Noncompliance perceived as, or resulting in, an actual assault on a subject or officer. The scope and severity of the attack would likely not result in serious bodily injury or death.
- C. **Aggravated Assaultive/Life Threatening** - Noncompliance perceived as, or resulting in, an actual assault on a subject or officer. The scope and severity of the attack would likely result in serious bodily injury or death.
- D. **Compliant** - Cooperative response to lawful commands.
- E. **Control Techniques** - Includes personal impact weapons, counter joint, and take downs.
- F. **"Deadly force"** - means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury. (RCW 9A.16.010, RCW 10.120.010 (1)).
- G. **De-escalation** - "De-escalation tactics" refer to actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident. Depending on the circumstances, "de-escalation tactics" may include, but are not limited to: Using clear instructions and verbal persuasion; attempting to slow down or stabilize the situation so that more time, options, and resources are available to resolve the incident; creating physical distance by employing tactical repositioning to maintain the benefit of time, distance, and cover; when there are multiple officers, designating one officer to communicate in order to avoid competing commands; requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder or other behavioral health professional, or back-up officers. (RCW 10.120.020(1)).

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- H. **"Immediate 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. (RCW 10.120.020(2)).
- I. **Intentional Pointing of a Firearm** - When the officer is intentionally "pointed in" at a subject with their firearm.
- J. **Less lethal alternatives** – Include, but are not limited to, verbal warnings, de-escalation tactics, conducted energy weapons, devices that deploy oleoresin capsicum (OC), batons, and beanbag rounds.
- K. **Less Lethal Device** - A device designed and intended to apply force that is not likely to cause the death of a subject, including but not limited to chemical agents (excluding chloroacetophenone (CN), O-chlorobenzylidene and malononitrile (CS) except as authorized by law and this policy), conducted energy weapons (CEWs), and impact/pain compliance devices (including batons, 40 mm, shot guns equipped with bean bag rounds and other blunt impact munition devices authorized by the Spokane Police Department).
- L. **"Necessary"** - 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 10.120.010 (4)).
- M. **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 (6)).
  - 1. **Inappropriate Force** - Physical force that is not reasonable and/or necessary under the totality of the circumstances.
  - 2. **Deadly Force** - Means the intentional application of physical force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.
  - 3. **Reportable Force** – All use of physical force shall be thoroughly documented in a report. If the incident does not require a report, the interaction may be documented in CAD.
  - 4. **Reviewable Force** – A use of physical force incident that requires a Use of Force Report in BlueTeam. (See 301.12.)
- N. **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, as further defined in 301.4 below.
- O. **"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.

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#### **301.3 ALL FORCE MUST BE IN ACCORDANCE WITH WASHINGTON LAW AND SPD POLICY**

The use of force has long been analyzed under the constitutional lens set forth in Graham v. Connor, 490 U.S. 386 (1989), which holds that all use of force must be objectively reasonable. Under Graham, force is adjudged by balancing of the “nature and quality of the intrusion” on an individual’s “Fourth Amendment interests”, considering the severity of the crime at issue; whether the suspect poses an immediate threat to the safety of the officers or others; whether he is actively resisting arrest or attempting to evade arrest by flight; and the totality of the circumstances.

These “Graham Factors” continue to serve as an important constitutional overlay in the decision to use force, but Washington law provides additional guidelines regarding when force is authorized and how it is to be carried out. These guidelines are consistent with Graham, but they set forth very specific statutory requirements for the use of force and are the foundation of this policy. Officers are required to abide by this policy.

#### **301.4 THE DECISION TO USE FORCE**

The decision to use force is perhaps the most serious decision for law enforcement officers. When possible, officers shall make protecting a person’s life and safety their primary objective.

##### **I. DETERMINING WHETHER TO USE PHYSICAL FORCE**

When determining whether physical force against a person is necessary, officers should consider the following:

(A) Perception of the known and potential threat considerations to the public, the officer(s) and subject involved.

- The nature of the encounter.
- The conduct of the subject being confronted, as reasonably perceived by the officer at the time.
- Age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of officers available vs. suspects.
- Whether a person is unresponsive and the reasons, if known, for that unresponsiveness.
- Potential for injury to officers, suspects and others.
- Training and experience of the officer.
- Proximity of potential weapons or dangerous improvised devices.
- Availability of cover officers.
- Prior contacts with the subject or awareness of any propensity for violence.
- Any other exigent circumstances.

(B) The level of resistance and/or attempts to flee demonstrated by the subject.



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- The risk and reasonably foreseeable consequences of escape.
- The degree to which the subject has been effectively restrained and the subject's ability to resist despite being restrained.
- The apparent need for immediate control of the subject or a prompt resolution of the situation.
- The availability of other options and their possible effectiveness.
- Time available and split-second decision-making required under the circumstances.
- Environmental factors, including lighting, weather conditions, physical obstructions, and other physical conditions that impacted the officer's and/or the suspect's ability to see, hear, etc. This also includes the proximity to bystanders who may be injured and the presence of persons likely to interfere.
- Suspect's response to de-escalation efforts.

## **II. REQUIREMENT TO USE REASONABLE CARE**

Officers should be aware that "reasonable care" is a legal requirement when using physical force under Chapter 10.120 RCW. Officers are required to use reasonable care when determining whether to use physical force or deadly force and when using any physical force or deadly force against another person. (RCW 10.120.020 (3)).

To that end, a peace officer shall:

- When possible, use all de-escalation tactics that are available and appropriate under the circumstances before using physical force. (RCW 10.120.020 (3)(a)). De-escalation is defined in 301.2.G of this policy.
- When using physical force, officers shall use the least amount of physical force necessary to overcome resistance under the circumstances. (RCW 10.120.020 (3)(b)). This includes a consideration of the characteristics and conditions of a person for the purposes 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. Such characteristics and conditions may include, for example, whether the person:
  - is visibly pregnant, or states that they are pregnant;
  - is known to be a minor, objectively appears to be a minor, or states that they are a minor;
  - is known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined in RCW 74.34.020;
  - displays signs of mental, behavioral, or physical impairments or disabilities;
  - is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs;
  - is suicidal;
  - has limited English proficiency; or

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- is in the presence of children.
- Terminate the use of physical force as soon as the necessity for such force ends. (RCW 10.120.020 (3)(c));
- When possible, shall use less lethal alternatives that are available and appropriate under the circumstances before using deadly force; (RCW 10.120.020 (3)(d)).
- Make less lethal alternatives issued to the officer reasonably available for his or her use. (RCW 10.120.020 (3)(e)).

Officers should not expose themselves to unreasonable danger and must continually evaluate the facts and circumstances with which they are presented.

Officers shall offer aid to those affected by a use of force whenever reasonably safe to do so.

#### **301.5 WHEN PHYSICAL FORCE IS AUTHORIZED**

- A. Except as otherwise provided in this policy and by law, an officer may use physical force against a person to the extent necessary to:
  - 1. Protect against a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense;
  - 2. Effect an arrest;
  - 3. Prevent an escape as defined under chapter 9A.76 RCW;
  - 4. 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;
  - 5. Take a person into custody when authorized or directed by statute;
  - 6. Protect against an imminent threat of bodily injury to the peace officer, another person, or the person against whom force is being used.
  - 7. 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;
  - 8. Take a minor into protective custody when authorized or directed by statute;
  - 9. Execute or enforce a court order authorizing or directing a peace officer to take a person into custody;
  - 10. Execute a search warrant;
  - 11. Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written order where the court expressly authorizes a peace officer to use physical force to execute or enforce the directive or order.
- B. Authority to Use Physical Force to Ensure Health and Safety

Officers may provide assistance to Fire and Emergency Medical Technicians. Officers have the authority to perform lifesaving measures or to perform community caretaking functions to ensure health and safety, including but not limited to, rendering medical

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assistance, performing welfare checks, or assisting other first responders and medical professionals. Officers have the authority to respond to requests for assistance or service from first responders, medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any member of the public.

#### **301.6 WHEN DEADLY FORCE IS AUTHORIZED**

In all circumstances, 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).

Circumstances in which an officer is authorized to use deadly force include:

To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony. In considering whether to use deadly force to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. (RCW 9A.16.040).

Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

- a) The suspect threatens a peace officer with a weapon or displays a weapon in a manner that could reasonably be construed as threatening; or
- b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm.

Under these circumstances, deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given, provided the officer meets the good faith standard of this section. (RCW 9A.16.040).

In using deadly force, the officer must act "in good faith", which means that, considering all the facts, circumstances, and information known to the officer at the time, a similarly situated reasonable officer would have believed that the use of deadly force was necessary to prevent death or serious physical harm to the officer or another individual. (RCW 9A.16.040).

#### **301.7 ASSESSING LEVEL OF FORCE - WHEN TO TERMINATE**

Officers shall continually assess situations to determine if de-escalation is feasible and if force is necessary. Officers will continually reassess their force in relation to the amount of continued resistance offered by the subject and adjust their level of force appropriately. Officers shall terminate the use of physical force as soon as the necessity for such force ends. (RCW 10.120.020 (3)(c)).

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#### **301.8 PROHIBITED FORCE TACTICS**

Officers may not use any force tactics prohibited by departmental policy or otherwise by law, except to protect his or her life or the life of another person from an imminent threat. Officers are not permitted to use physical force or deadly force in a manner or under such circumstances that would violate the United States Constitution or state Constitution. The use of excessive force is prohibited.

A peace 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 as a deadly weapon and no other reasonable means to avoid potential serious harm are immediately available to the officer.

#### **301.9 DUTY TO INTERVENE AND REPORT**

When officers witness violations of the law and/or department policies, regardless of their rank, they are required to intervene according to the following guidelines:

1. Any on-duty Spokane Police Officer who witnesses another peace officer engaging or attempting to engage in the use of excessive force against another person shall intervene when in a position to do so to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force. A peace officer shall also render aid at the earliest safe opportunity in accordance with RCW 36.28A.445, to any person injured as a result of the use of force.
2. Any on-duty Spokane Police Officer who witnesses any wrongdoing committed by another peace officer, or has a good faith reasonable belief that another peace officer committed wrongdoing, shall report such wrongdoing to the witnessing officer's supervisor or, in the absence of their supervisor, any other available supervisor, and that notification shall follow through the chain of command to the Office of the Chief of Police.
3. Officers shall not be disciplined or retaliated in any way for intervening in good faith or for reporting wrongdoing in good faith as required by this section.
4. The Spokane Police Department, in compliance with state law, shall send notice to the criminal justice training commission of any disciplinary decision resulting from an officer's failure to intervene or failure to report as required by this section to determine whether the officer's conduct may be grounds for suspension or revocation of certification under RCW 43.101.105. This notification shall occur within 15 days of any disciplinary decision.
5. For purposes of this section:
  - a) "Excessive force" means force that exceeds the force permitted by law or policy of the witnessing officer's agency.
  - b) "Peace officer" refers to any general authority Washington peace officer.

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c) "Wrongdoing" means conduct that is contrary to law or contrary to the policies of the witnessing officer's agency, provided that the conduct is not de minimis or technical in nature.

#### **301.10 MEDICAL CONSIDERATION**

- A. Medical assistance shall be provided to any person who requests it, who is rendered unconscious, exhibits signs of physical distress, is injured, or who claims an injury (with the exception of minor marks on the wrist consistent with being handcuffed and/or minor marks or abrasions to portions of the body consistent with being handcuffed and/or minor marks or abrasions to portions of the body consistent with prone handcuffing). Any subject exhibiting signs of physical distress after an encounter should be continuously monitored until the subject can be medically assessed.
- B. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. Any refusal of medical attention shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a BWC recording is made of the contact or an interview with the subject, any refusal should be included in the recording if possible. Any subject who has been rendered unconscious by any use of force will be examined and/or treated at a medical facility prior to being booked into jail.
- C. The on-scene supervisor, or if not available the primary handling officer, will make all reasonable attempts to provide information, as time allows, to assist medical care providers. This notification should include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).
- D. Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and who appear impervious to pain (sometimes called Excited-Agitated Delirium), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden in-custody death (postmortem diagnosis of death: Excited Delirium). Calls involving these persons should be considered medical emergencies. Law enforcement personnel who reasonably suspect a medical emergency exists should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.
- E. When the scene is secure and it is safe to do so, officers shall also render aid at the earliest safe opportunity in accordance with RCW 36.28A.445, to any person injured as a result of the use of force, until medical response has arrived.

#### **301.11 USE OF FORCE REPORTING**

- A. Unless otherwise provided in policy, all force used by an officer shall be promptly, completely and accurately documented in an incident report. The officer shall articulate the factors which made the use of force objectively reasonable, based on the Use of Force Policy.

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- B. The officer shall also document attempts to gain compliance through de-escalation, verbal commands, force options and other tactics. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.
- C. Officers, including officers working extra duty assignments, shall promptly report circumstances of incidents involving a Use of Force, Attempted Force, Inappropriate Force, Inappropriate Attempted Force, or Excessive Force to a supervisor or command officer.

#### **301.12 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- A. The application of force resulted in apparent injury to the subject or unconsciousness (with the exception of minor marks on the wrist consistent with being handcuffed and/or minor marks or abrasions to portions of the body consistent with prone handcuffing);
- B. The subject claims an injury resulted from a use of force, even if no injury is visible (with the exception of minor marks on the wrist consistent with being handcuffed and/or minor marks or abrasions to portions of the body consistent with prone handcuffing);
- C. All applications of a Conducted Energy Weapon (e.g. TASER™) (See Policy 308);
- D. The intentional discharge of firearms (with the exception of training or recreation) (See Policy 312);
- E. Intentional Pointing of a Firearm - When the officer is intentionally "pointed in" at a subject with their firearm. Maintaining tactical observation of a subject with magnified optics is a trained tactical advantage and should not be considered a use of force;
- F. Any deployment of OC by means of spray or by means of physically or mechanically delivered techniques where a person is exposed to the chemical (See Policy 308);
- G. Any deployment of CS by means of a spray or by means of physically or mechanically delivered techniques where a person is exposed to the substance (see Policy 308);
- H. Any application of an impact weapon whether personal, issued or improvised, to a subject, including Level 2 strikes (See Policy 308);
- I. Canine deployment per Policy 318; and
- J. When a subject alleges any of the above has occurred.

#### **301.13 NOTIFICATION TO THE CRIMINAL JUSTICE TRAINING COMMISSION**

Notification to the commission shall be made within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by an officer.

##### **301.13.1 NOTIFICATION TO OFFICE OF INDEPENDENT INVESTIGATIONS**

If the incident involves use of deadly force by an involved officer that results in death, substantial bodily harm, or great bodily harm, the Spokane Police Department must immediately contact the

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office pursuant to the procedure established by their office once the involved agency personnel and other first responders have rendered the scene safe and provided or facilitated lifesaving first aid to persons at the scene who have life-threatening injuries.

#### **301.14 CHAIN OF COMMAND REVIEW OF USE OF FORCE**

##### **301.14.1 SUPERVISOR REPORTING**

When a supervisor becomes aware of an incident in which there has been a reviewable application of force, the supervisor shall complete a Use of Force Report in a timely manner. In the event a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still required to complete a Use of Force Report. Use of Force reports are required under the circumstances described in Section 301.13 Notification to Supervisors.

##### **301.14.2 INVESTIGATION, DOCUMENTATION AND NOTIFICATION**

When completing a Use of Force Report the supervisor shall take the necessary steps to conduct a thorough investigation. The supervisor shall:

- A. Respond to the scene, when possible.
- B. Review all documentation of the incident and make every reasonable effort to contact all involved officers.
- C. Ensure identification of witnesses and other involved parties. When possible conduct civilian interviews of those subjects, including the subject to whom the force was applied, on body worn camera when possible.
- D. Ensure the collection of any appropriate evidence when applicable.
- E. Ensure photographs are taken of all injuries and relevant items such as dirt stains on uniforms, tears in clothing, damage to equipment, etc. Photos shall also be taken when appropriate to document the lack of injury.
- F. In the event that the supervisor believes that the incident may give rise to potential civil litigation, the supervisor shall notify the DSO or appropriate command staff member during normal business hours.
- G. Attach all incident reports, the CAD incident history, Conducted Energy Weapon downloads, and a link to all officer-worn videos in Evidence.com.
- H. Enter force options used by any officer who used reviewable force. List other officers present as witness officers.
- I. Provide a brief summary of the incident in BlueTeam and attach a Use of Force Additional form with all other information.
- J. Provide a brief comment stating whether the use of force was within policy and any possible training issues, unless the involved officer is of an equal or superior rank. If more detailed analysis is needed, include it in the Use of Force Additional report.
- K. Forward the Use of Force Report to 'Internal Affairs Group' in BlueTeam.

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Internal Affairs will attach all photographs and recordings of radio traffic to the report. A member of Internal Affairs will verify that all relevant materials were attached to the case and forward it to the next person in the supervisor's chain of command for review.

#### 301.14.3 REFERRAL TO INTERNAL AFFAIRS

The supervisor shall complete a Use of Force Report through BlueTeam. The supervisor shall forward the Use of Force Report through BlueTeam to the Internal Affairs Group and copy each member of the chain of command to include the appropriate Major.

If upon review of an application of force by an officer(s), the supervisor believes that the application of force could rise to the level of misconduct, or the supervisor sees conduct that could rise to the level of misconduct, the supervisor shall initiate an internal affairs complaint in BlueTeam. If the subject of the use of force makes a complaint about the use of force or demeanor of the officer(s) involved in the incident, an Internal Affairs Complaint will be generated in BlueTeam. The supervisor shall forward the Internal Affairs Complaint and the Use of Force report through BlueTeam to the Internal Affairs Group and copy each member of the chain of command to include the Chief of Police in the routing.

Upon initiating an Internal Affairs Complaint for the reasons above, the DSO will be promptly notified through the Chain of Command.

#### 301.14.4 INTERNAL AFFAIRS RESPONSIBILITY – DEADLY FORCE

Internal Affairs shall complete the BlueTeam Use of Force Report for any incident involving deadly force. (See also Policy 310).



# Control Devices and Techniques

## 308.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control techniques and devices that are described in this policy.

## 308.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Spokane Police Department authorizes officers to use control techniques and devices in accordance with the guidelines in this policy and the Use of Force Policy (301).

## 308.3 CONTROL TECHNIQUES

### 308.3.1 APPLICATION OF CONTROL TECHNIQUES

Officers may only use those control techniques for which they have successfully completed department-approved training. Officers utilizing any control technique should consider:

- A. The degree to which the application of the technique may be controlled given the level of resistance.
- B. Whether the person can comply with the direction or orders of the officer.
- C. Whether the person has been given sufficient opportunity to comply.

“Control techniques” refers to all listed techniques described in the Spokane Police Department Defensive Tactics Manual. Those not listed or modified variations of listed techniques shall be deemed as exceptional techniques.

### 308.3.2 LATERAL NECK RESTRAINT (LNR)

Lateral Neck Restraints (Level 1 and Level 2) are prohibited. A neck restraint refers to any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

The Spokane Police Department prohibits the use of choke holds. NOTE – a choke hold is not a Lateral Neck Restraint; it is the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway.

## 308.4 USE OF RESTRAINT DEVICES

The Spokane Police Department authorizes the use of restraint devices in accordance with this policy and department training.

Only members who have successfully completed Spokane Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

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When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- A. The circumstances or crime leading to the arrest.
- B. The behavior of the arrested person.
- C. The age and health of the person, pregnancy, and any apparent disability.

Modification of applied restraints may be utilized.

#### 308.4.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee. If an officer handcuffs an individual who is later released without charges, the officer shall document the reason for the contact and the reason to release the subject in either CAD or a report, whichever is appropriate for the situation.

#### 308.4.2 RESTRAINT OF PREGNANT PERSON

Females who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety.

No one who is in labor shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary to prevent escape or injury (RCW 70.48.500).

#### 308.4.3 RESTRAINT NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (i.e., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

#### 308.4.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

The Spokane Police Department authorizes the use of Handcuffs or Plastic "Flex" Cuffs in accordance with this policy and department training.

Only members who have successfully completed Spokane Police Department-approved training on the use of handcuffs or plastic "flex" cuffs described in this policy are authorized to use these devices.

Officers will generally handcuff all arrested subjects. However, there are some arrest circumstances where handcuffing techniques should be modified or not applied. These situations may arise due to the subject's age, disability, medical conditions (e.g. pregnancy), or other

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circumstances. If officers choose to modify or forego handcuffing, they must document the circumstances leading to the decision.

Officers may choose to utilize handcuffing techniques during circumstances where enhanced control is warranted but have yet to make an arrest, if at all.

#### 308.4.5 APPLICATION OF SPIT GUARDS

The Spokane Police Department authorizes the use of spit guards in accordance with this policy and department training.

Only members who have successfully completed Spokane Police Department approved training on the use of spit guards described in this policy are authorized to use these devices and the devices used shall only be those issued by the Spokane Police Department.

A spit guard (sometimes referred to as "spit hood," "spit mask," 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.

Officers may apply a spit guard when lawfully restraining or attempting to restrain an individual who is spitting or biting. 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.

There are circumstances that may arise when extra care is needed if utilizing a spit guard which include persons who have been sprayed with OC spray should be decontaminated so their breathing is not distressed prior to application of a spit guard and for individuals in a 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 to remove the spit guard as soon as appropriate.

Officers shall not apply spit guards in the following situations because of higher risks:

- Where the restrained person is bleeding profusely from the area around the mouth or nose.
- 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.
- On an individual who demonstrates symptoms of labored or distressed breathing.

Officers should not apply a spit guard on an individual who states that they have a medical condition that affects their breathing. Under circumstances where officers apply a spit guard to an individual who states that they have a medical condition that affects their breathing, officers shall remove the spit guard if the individual shows symptoms of distressed or labored breathing.

In the event of a medical emergency, spit guards should be removed immediately.

Prior to application of a spit guard, an officer shall warn the individual and provide a reasonable time for the person to comply with the officer's commands. If applied, the officer shall remove the

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spit guard as soon as the threat of spitting or biting has ended, or the officer observes that the spit guard is no longer necessary.

After application of a spit guard and when safe to do so, officers shall move the individual into a seated or side recovery position and shall monitor the individual until the spit guard is removed. Officers shall assist when escorting the individual due to the potential for impaired or distorted vision.

Application of a spit guard must be documented.

Spit guards shall be discarded after each use.

#### 308.4.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility. Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

#### 308.4.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violently resisting or assaultive person when it reasonably appears necessary to do so during the course of detention, arrest or transportation. Only restraint devices approved by the department shall be used. In determining whether to use the leg restraint, officers should consider:

- A. Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- B. Whether it is reasonably necessary to protect the suspect from the suspect's own actions (e.g., hitting head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- C. Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

#### 308.4.8 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

- A. If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- B. Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- C. Once secured, the person should not be placed on their stomach for an extended period.

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- D. The restrained person should be continually monitored by an officer while in the leg restraint.
- E. When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

#### **308.4.9 TRANSPORTING LEG RESTRAINED SUSPECTS**

When transporting a suspect(s) who has been restrained, officers shall observe the guidelines as specified in the Spokane Police Department Defensive Tactics Manual.

#### **308.5 ISSUING, CARRYING AND USING CONTROL DEVICES**

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department.

Only officers who have successfully completed department-approved training and demonstrated satisfactory skill and proficiency in the use of any control device are authorized to carry and use the device.

##### **308.5.1 SHIFT COMMANDER RESPONSIBILITIES**

The Shift Commander may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

##### **308.5.2 TRAINING DIRECTOR RESPONSIBILITIES**

The Training Director or designee shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

##### **308.5.3 USER RESPONSIBILITIES**

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Training Director or designee for disposition.

Commissioned Officers operating in a patrol capacity shall carry a Conducted Energy Weapon (TASER™ device).

Commissioned Officers operating in a patrol capacity shall carry a minimum of one of the following two control devices:

- A. Baton
- B. Oleoresin Capsicum (OC)

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Commissioned Officers operating in a modified uniform capacity where there is a potential for detention, apprehension or control of a subject shall carry a Conducted Energy Weapon (TASER™ device).

Commissioned Officers operating in a modified uniform capacity where there is a potential for detention, apprehension or control of a subject shall carry a minimum of one of the following two control devices:

- A. Baton
- B. Oleoresin Capsicum (OC)

#### **308.6 BATON GUIDELINES**

The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious physical injury or death to the officer or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

#### **308.7 SPECIAL IMPACT MUNITIONS GUIDELINES**

This department is committed to reducing the potential for violent confrontations. Special impact munitions, when used properly, can be used in an attempt to de-escalate a potentially deadly situation.

##### **308.7.1 SAFETY PROCEDURES**

Shotguns specifically designated for use with special impact munitions will be specially marked in a manner that makes them readily identifiable as such. These shotguns are only available to designated members of specialty units who maintain certification and qualification approved by unit SOP and the Range Master. The primary use of this tool is to support the mission and deployments of these specialty units. Deployment of this tool during a patrol response should only occur when the 40 MM "Blue Nose" munition is unavailable or delayed. It may also be deployed as a contingency device in support of a failed 40 MM "Blue Nose" munition deployment.

Officers who must deploy special impact/blunt impact munitions will employ the two-person rule for loading. The two-person rule is a safety measure achieved by having a second officer watch the loading process to ensure that the weapon is completely emptied of conventional ammunition.

##### **308.7.2 DEPLOYMENT AND USE**

The 40mm exact impact "Blue Nose" munition is the only authorized non-chemical impact munition for patrol deployment.

Only department-approved special impact munitions shall be carried and deployed. Only officers who have successfully completed department-approved training and demonstrated satisfactory

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skill and proficiency in the use of any special impact munitions are authorized to carry and use this device.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons, and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

#### **308.7.3 DEPLOYMENT CONSIDERATIONS**

Before discharging special impact munitions, the officer should consider such factors as:

- A. Distance and angle to target
- B. Type of munitions employed
- C. Type and thickness of subject's clothing
- D. The subject's proximity to others
- E. The location of the subject
- F. The subject's physicals (age, pregnancy, weight, etc.)
- G. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

A verbal warning of the intended use of the device shall precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances.

The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious physical injury or death to the officer or others.

### **308.8 CONDUCTED ENERGY WEAPONS**

#### **308.8.1 PURPOSE AND SCOPE**

This policy provides guidelines for the issuance and use of TASER™ devices.

#### **308.8.2 POLICY**

The TASER™ device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury.

#### **308.8.3 ISSUANCE AND CARRYING TASER™ DEVICES**

Only members who have successfully completed department-approved training and demonstrated satisfactory skill and proficiency may be issued the TASER™ device.

Officers shall only use the TASER™ device and cartridges that have been issued by the Department.

Officers carrying the TASER™ device should perform a spark test on the unit prior to every shift.

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When carried while in uniform officers shall carry the TASER™ device in a department-approved holster on the weak-side opposite their duty firearm.

- A. Whenever practicable, officers should carry two or more cartridges on their person when carrying the TASER™ device.
- B. Officers shall be responsible for ensuring that their issued TASER™ device is properly maintained and in good working order.
- C. Officers should not hold both a firearm and the TASER™ device at the same time.

#### 308.8.4 APPLICATION OF THE TASER DEVICE

The TASER device may be used when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person who is demonstrating non-compliance perceived as assaultive.

Active resistance or mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

#### 308.8.5 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER™ device shall precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER™ device in the related report.

#### 308.8.6 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER™ device on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- A. Individuals who are known to be pregnant.
- B. Elderly individuals or obvious juveniles.
- C. Individuals with obviously low body mass.
- D. Individuals who are handcuffed or otherwise restrained.
- E. Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- F. Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

#### 308.8.7 MULTIPLE APPLICATIONS OF THE TASER™ DEVICE

Officers should apply the TASER™ device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Total exposure to the TASER™ device should



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not exceed 15 seconds. If exposure exceeds 15 seconds, the subject shall be transported to a medical facility for examination prior to booking.

#### 308.8.8 ACTIONS FOLLOWING DEPLOYMENTS

Officers shall notify a supervisor of all TASER™ device discharges. The expended cartridge, along with both probes and wire, should be collected and submitted into evidence. Care should be taken to preserve the evidence.

The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### 308.8.9 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department TASER™ devices while off-duty.

Officers shall ensure that TASER™ devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

#### 308.8.10 MEDICAL TREATMENT AND PROBE REMOVAL

After a probe deployment of a TASER and once the suspect is in custody, proper procedures for removal of the probes shall begin. Refer to Policy 301.11 for medical considerations.

- A. **Non-Sensitive Areas:** Removal of probes in non-sensitive areas may be done by officers according to probe-removal training guidelines, which include the wearing of bio-protective gloves. Officers should inspect the probes after removal to see that the entire probe and probe barb have been removed. In the event that a probe, or probe barb, has broken off and it is still embedded in a subject's skin, the subject shall be provided appropriate medical attention to facilitate the removal of the object.
- B. **Sensitive Areas:** If a probe is embedded in a sensitive area of the body (neck, throat, eye, face, groin, or female breasts), the probes shall be removed by qualified medical personnel.

#### 308.8.11 TRAINING

Personnel who are authorized to carry the TASER™ device shall be permitted to do so only after successfully completing the initial department-approved training by a certified instructor. Any personnel who have not carried the TASER™ device as a part of their assignment for a period of six months or more shall be recertified in accordance with TASER™ International certification guidelines by a department-approved TASER™ device instructor prior to again carrying or using the device.

The Training Lieutenant is responsible for ensuring that all members who carry TASER™ devices have received initial and annual proficiency training. Training shall be conducted in accordance with TASER™ International guidelines

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#### **308.9 OLEORESIN CAPSICUM (OC) GUIDELINES**

Uniformed personnel carrying department issued OC spray shall carry the device in its holster on the equipment belt. Plainclothes and non-field personnel may carry OC spray as authorized in accordance with the needs of their assignment or at the direction of their supervisor.

OC spray (to include foggers, mist or stream) and OC expulsion devices (T-16) may be used in compliance with department training guidelines when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person who is demonstrating non-compliance perceived as assaultive.

Active resistance or mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the OC to control an individual.

##### **308.9.1 OLEORISIN CAPSICUM (OC) MUNITIONS GUIDELINES**

OC munitions and launchable munitions may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Shift Commander, Incident Commander or SWAT Commander may authorize the delivery and use of OC munitions, and only after evaluating all conditions known at the time and determining that such force appears objectively reasonable.

##### **308.9.2 TREATMENT FOR OC SPRAY EXPOSURE**

Decontamination efforts shall take place as soon as practicable for persons who have been exposed to the use of OC. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

##### **308.9.3 POST-APPLICATION NOTICE**

Whenever chemical munitions or OC has been introduced into a residence, building interior, vehicle or other enclosed area, officers shall provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean-up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

#### **308.10 2-CHLOROBENZALMALONONITRILE (CS) GUIDELINES**

(1) A law enforcement agency may not use or authorize its peace officers or other employees to use CS unless necessary to alleviate a present risk of serious harm posed by a: (a) riot; (b) barricaded subject; or (c) hostage situation.

(2) Prior to using CS as authorized under subsection (1) of this section, the officer or employee shall:

- (a) Exhaust alternatives to the use of CS that are available and appropriate under the circumstances;

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(b) Obtain authorization to use CS from a supervising officer, who must determine whether the present circumstances warrant the use of CS and whether available and appropriate alternatives have been exhausted as provided under this section;

(c) Announce to the subject or subjects the intent to use CS; and

(d) Allow sufficient time and space for the subject or subjects to comply with the officer's or employee's directives.

(e) In the case of a riot, final authorization for the use of CS must be obtained from the Mayor.

(3) For the purposes of this section:

(a) "Barricaded subject" means an individual who is the focus of a law enforcement intervention effort, has taken a position in a physical location that does not allow immediate law enforcement access, and is refusing law enforcement orders to exit.

(b) "Highest elected official" means the county executive in those charter counties with an elective office of county executive, however designated, and in the case of other counties, the chair of the county legislative authority. In the case of cities and towns, it means the mayor, regardless of whether the mayor is directly elected, selected by the council or legislative body pursuant to RCW 35.18.190 or 35A.13.030, or selected according to a process in an established city charter. In the case of actions by the Washington State Patrol, it means the governor.

(c) "Hostage situation" means a scenario in which a person is being held against his or her will by an armed, potentially armed, or otherwise dangerous suspect.

(d) "Tear gas" means 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, except "tear gas" does not include oleoresin capsicum (OC). The Spokane Police Department does not utilize CN.

#### **308.11 PEPPER BALL LAUNCHING SYSTEM**

Pepper Ball Launching System is a unique less-lethal chemical agent delivery system that uses high pressure air launchers to deliver, from a safe distance, frangible plastic spheres containing a compound of Capsaicin powder, also referred to as "projectiles". The system combines chemical agent exposure with kinetic impact.

##### **308.11.1 PEPPER BALL PROJECTILES AS A USE OF FORCE**

The use of Pepper Ball projectiles is considered a use of force and may be used when such force is reasonably necessary to control a person who is demonstrating non-compliance perceived as assaultive.

Where multiple persons are present, officers will direct Pepper Ball projectiles towards the person(s) posing a specific threat of harm to officers or others or are engaging in acts of violence

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or significant property destruction. Officers deploying Pepper Ball projectiles will attempt to avoid or minimize incidental exposure to non-involved persons.

Officers must justify each separate volley of Pepper Ball projectiles. After the initial volley of Pepper Ball projectiles, each subsequent volley must be reasonable, and separately re-evaluated. A "volley" is approximately 1 to 5 rounds.

When reasonable and necessary under the totality of the circumstances, multiple volleys may be necessary for **aerial denial**, and when this occurs, officers shall articulate the need for the increased use.

Active resistance or mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of Pepper Ball projectiles to control an individual.

#### 308.11.2 PEPPER BALL DEPLOYMENT GUIDELINES

Only officers trained and certified are authorized to use the Pepper Ball Launching System.

Officers arming themselves with a Pepper Ball launching system will advise radio over the air and a supervisor will respond to the incident if available. Officers will receive an annual recertification to remain authorized users of the Pepper Ball Launching System.

The Pepper Ball Launching System allows for differing uses depending on the circumstances of an incident. Three recognized and appropriate uses of the Pepper Ball Launching System are:

1. **Direct Impact:** The Pepper Ball projectiles are intentionally delivered towards a person to impact their body. Although classified as a less-lethal device, the potential exists for the projectiles to inflict greater injury when they strike the face, eyes, neck and groin. Therefore, officers deploying Pepper Ball projectiles will not intentionally target the head, neck, or genitals without proper governmental interest.
2. **Area Denial/Non-Direct Impact:** The Pepper Ball Projectiles are intentionally delivered towards an area when circumstances require that the area be cleared of individual(s) and when the use of OC is authorized. When used for area denial purposes, preferred targets are hard surfaces such as streets or walls.
3. **Glass Breaker Pepper Balls:** Glass Breaker Pepper Ball projectiles are intended to be used on vehicles or residences for the purpose of breaking glass. However, these rounds may also be used to disable video cameras, break light bulbs, or other approved purposes. Glass Breaker projectiles shall not be used on people unless a life-threatening situation exists. Glass Breaker projectiles are only to be used by SWAT and CART officers who have been trained and certified by the Spokane Police Department's CART Team. Glass Breaker rounds will be stored in a manner as to ensure they are deployed separate from regular Pepper Ball projectiles. When transitioning between the two ammunitions, officers shall use the two person rule for loading. The specific use of Glass Breaker projectiles requires the additional approval of a Sergeant or higher rank.

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#### 308.11.3 TREATMENT FOR PEPPER BALL EXPOSURE AND DIRECT IMPACT INJURIES RELATED TO THE PEPPER BALL LAUNCHING SYSTEM

Persons who have been exposed to or otherwise affected by the use of Pepper Ball projectiles shall be promptly provided with cool clean water and fresh air to cleanse the affected areas. Direct impact injuries should also be assessed. Those persons who are injured, complain of injury or complain of further severe effects shall be examined by appropriate medical personnel.

#### 308.11.4 TREATMENT FOR PEPPER BALL EXPOSURE AND/OR IMPACT

Decontamination efforts shall take place as soon as practicable for persons who have been exposed to the use of pepper balls. Direct impact injuries should also be assessed and documented, according to policy. Those persons who are injured, complain of injury or complain of further severe effects shall be examined by appropriate medical personnel.

#### 308.11.5 REPORTING THE USE OF PEPPER BALL PROJECTILES

Officers are required to report the use of Pepper Ball projectiles regardless of the effect or whether a subject is struck, including if no injury or complaint of pain or injury is reported. Officers are also required to report all decontamination procedures that followed.