

CHAPTER 10

USE OF FORCE

10.010 Reasonable Force - General Policy

A use of force occurs anytime a deputy employs physical action against another person that is reasonably likely to cause physical pain or injury to that person. Such force could include applications of physical tactics and techniques, less lethal devices, chemical agents, and weapons. When a subject allows themselves to be restrained, handcuffed, searched, or escorted it is not considered use of physical force.

For physical force to be necessary, a reasonably effective alternative does not appear to exist, and the use of force must be a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others.

A deputy should use the minimum force reasonably necessary to overcome resistance to secure and detain an offender. What may be reasonable force under one set of circumstances may be unreasonable force under a different, though similar, set of circumstances. Deputies should consider the severity of the crime and whether alternatives to force exist. When the arrest is for a misdemeanor, the seriousness of the crime does not justify endangering the accused's life in effecting the arrest.

Reasonable force will always be judged against the seriousness of the crime. Deputies should make every effort to utilize distance, shielding, repositioning and communication to de-escalate situations to prevent a use of force altogether. Good communication skills can slow the pace of an encounter and allow time for back-up to arrive. If multiple deputies are on scene, one should be designated to communicate to avoid competing commands. Striving to prevent use of force to begin with, the department will provide deputies mental health and de-escalation training in compliance with RCW 43.101.452 and WAC 139-11-020.

Deputies should use reasonable care when considering using force and when possible, alternatives to force should be attempted first. Prior to using force deputies should take into consideration whether the subject is visibly pregnant or claims to be pregnant, whether they are known to be, appear to be, or claim to be a juvenile or vulnerable adult, whether they are displaying signs they are mentally, physically, or behaviorally impaired or disabled, appear to be experiencing perceptual or cognitive impairment typically related to alcohol or drugs, are suicidal, or have limited English proficiency. The presence of children should also be considered.

Force may be used:

1. In accordance with RCW 9A.16.020.
2. When probable cause exists to make an arrest.
3. To prevent an escape as defined in RCW 9A.76.

4. To protect against an imminent threat of bodily harm to the deputy, another person, or the person whom force is used against.
5. To 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.
6. Take a minor into protective custody when authorized or directed by statute.
7. To execute or enforce a court order authorizing or directing a deputy to take a person into custody.
8. To execute a search warrant.
9. To prevent a person from fleeing a lawful temporary investigative detention.

All physical force must terminate as soon as the necessity ends.

If any amount of force is used in apprehending an offender, the deputy will report the incident to the shift supervisor if available. A written report of the incident will be filed before the end of that shift and forwarded to the Chief Deputy. The Chief Deputy will track these incidents and determine if an individual deputy has a pattern of questionable use of force incidents so that early intervention can be made. If a deputy leaves employment with this department while under investigation for a use of force incident that information will be provided to the Criminal Justice Training Commission (CJTC). Any open investigation will be completed regardless of employment status and the results given to the CJTC.

Duty to Intervene

All deputies have a duty to intervene if they believe a fellow deputy from this department or officer from any other department is using force that is not reasonable and necessary or not in compliance with this policy. That deputy is required to immediately report the incident to the on-duty supervisor. If no supervisor is on duty, they shall call the Chief Deputy. Memorandums will be completed by the deputy and shift supervisor and sent to the Chief Deputy. If the officer is from another agency the Chief Deputy or Sheriff will forward the reports to the appropriate supervisor with that agency. Any deputy who fails to report an incident will be subject to discipline from this department as well as the CJTC. No deputy who makes a report in good faith will be subject to discipline even if it is later determined there was no policy violation in the reported use of force.

10.020

Use of Restraints and Handcuffs

In general, all persons taken into custody should be handcuffed with their hands behind their backs. The facts and circumstances surrounding the case will, however, dictate the actual procedure. For example, the deputy may elect not to handcuff a suspect arrested for a minor misdemeanor; whereas it would be dereliction of duty not to handcuff a felon.

When transporting a prisoner from one jail to another, if a belly chain is available, use of this method of handcuffing is recommended.

The following rules will apply to the use of handcuffs:

1. Compliant handcuffing is not a use of force and does not require a report.
2. Except under exceptional circumstances, do not handcuff a prisoner to a fixed object such as a post, vehicle, or building.
3. For deputy safety, prisoners should be handcuffed with hands behind the back.
4. Never handcuff yourself to a prisoner.
5. Do not use handcuffs as a "come along."
6. If an individual is handcuffed in the prone position, deputies should roll them onto their side in the "recovery position" as soon as possible to alleviate the risk of positional asphyxia.
7. If a handcuffed individual continues to resist, deputies should make every attempt to use the least force necessary to prevent injury to themselves as well as the prisoner. Unless they are actively attempting to assault deputies, OC-10 or a TASER should not be used against a handcuffed prisoner.
8. If a handcuffed individual is attempting to kick deputies or vehicle windows and the use of ankle restraints is necessary, deputies should keep the risk of positional asphyxiation in mind. Use of a soft hobble that can be secured by a closed vehicle door and allows the handcuffed person to remain seated in an upright position is the best option.

Deputies should watch for signs of excited delirium.

Excited delirium is defined as, "A state of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, hostility, exceptional strength and endurance without apparent fatigue." (Morrison and Sadler, 2001) If excited delirium is suspected, deputies should request EMS respond to evaluate. The on-duty supervisor should be notified, and the subject should be transported to the emergency room for evaluation.

10.030 PUNCHES, KICKS OR STRIKES

Punches, kicks, or other strikes provide a means by which a deputy can defend themselves or others from bodily harm and a means of restraining violent individuals. It should be used to affect an arrest or subdue violent persons when other means have failed or are impractical. If used a deputy must notify the on-duty supervisor and forward a use of force report to the Chief Deputy.

10.040 IMPACT WEAPON

Impact weapons such as a flashlight, baton, including collapsible batons, provides a means by which a deputy can defend themselves or others from bodily harm and a means of restraining violent individuals. The impact weapon should be used in situations which do not warrant use of a firearm. It should be used to affect an arrest or subdue violent persons when other means have failed or are impractical.

No deputy shall carry or use a baton without receiving the proper training and being properly certified for its use.

The baton should be carried on the belt and should not be unnecessarily brandished.

Except in circumstances where a deputy's life or the life of another person is threatened, do not strike a subject in the head, groin, or spine with an impact weapon.

Whenever a baton or other impact weapon is used on a subject the deputy shall administer first aid if necessary. The on-duty supervisor shall be notified and determine if a medical evaluation is necessary. A written report regarding the incident, the need for that level of force, and the results of that use should be made prior to going off shift and forward such report to the Chief Deputy.

10.050 Use of Less-Than-Lethal Shotgun

The Sheriff may, at his discretion, authorize the issuance of less-than-lethal shotguns. "Less-than-lethal" shotguns, also known as "less lethal" shotguns shall be considered a blunt impact weapon comparable to a baton.

Shotguns used for this purpose shall be department issued and clearly marked in brilliant orange. Only deputies who have been authorized and trained shall carry these weapons on duty. No deputy assigned to carry a less-than-lethal shotgun shall possess in their patrol vehicle any other shotgun other than the temporary transport of evidence. No shotgun ammunition other than the department approved and issued blunt impact ammunition shall be carried in the deputy's patrol vehicle. If that deputy takes shotgun ammunition as evidence, it shall be securely packaged prior to being placed in their patrol vehicle. No other ammunition shall be loaded into less-than-lethal shotguns for any reason. A second deputy should be present when loading the shotgun to ensure the proper ammunition is loaded.

Whenever practical, the on-duty supervisor should authorize the use of a less-than-lethal shotgun. Exigent circumstances do not require pre-authorization.

Deputies are not required or compelled to use less-than-lethal shotguns in lieu of other reasonable tactics. The safety of hostages, innocent persons and deputies shall take priority over subjects engaged in criminal or suicidal behavior.

Deployment of blunt impact ammunition should follow all training and should take into consideration the distance to the subject, persons around the subject, type of clothing worn and what lies beyond. Intentionally targeting the head, neck or spine should be considered deadly force and should only be done if the deputy believes the subject poses an immediate threat to life.

A clear verbal warning indicating that deployment of less-than-lethal ammunition is occurring shall always be given prior to deployment of the device, providing that such warning is feasible under the circumstances. This warning is given to prevent sympathetic fire from other deputies on scene and to allow the suspect one last opportunity to comply.

Anyone struck by blunt impact ammunition shall be taken to the emergency room for medical evaluation and a report shall be written as soon as practical and submitted to the Chief Deputy.

If a firearms instructor is authorized to carry a less-than-lethal shotgun on-duty, an additional written safety plan will be created to address the possession of standard shotgun ammunition in their vehicle.

10.060

PepperBall Projectile Systems

PepperBall projectile systems are a non-lethal system that uses plastic spheres that are filled with a derivative of Pava powder. The launchers use compressed air to deliver the projectiles with enough force to burst on impact and release the powder. The potential exists for the projectiles to inflict injury if they strike the head, neck, or spine. Therefore, deputies using a PepperBall system should not intentionally target those areas unless deadly force would otherwise be reasonable and necessary. Deputies should never deploy the PepperBall system unless they have backup available to utilize other force options if necessary. Deputies encountering a situation that warrants the use of a PepperBall system shall notify the on-duty supervisor as soon as practicable. The supervisor shall ensure that a use of force report is completed and forwarded to the Chief Deputy.

Deployment and Use

Deputies may carry and deploy PepperBall systems only after receiving proper training. Approved projectiles may be used to compel an individual to cease their actions when such projectiles present a reasonable option. Deputies are not required or compelled to use PepperBall systems in lieu of other reasonable tactics if the deputy determines that deployment of these systems cannot be done safely. The safety of hostages, innocent persons and deputies takes priority over the safety of subjects engaged in criminal or suicidal behavior. Circumstances appropriate for deployment include, but are not limited to, situations in which:

- A. The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- B. The suspect has made credible threats to harm themselves or others.
- C. The suspect is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or deputies.
- D. There is probable cause to believe that the suspect has already committed a felony or crime of violence and is refusing to comply with lawful orders.

A clear verbal warning indicating that deployment of PepperBall system is occurring shall always be given prior to deployment of the device, providing that such warning is feasible under the circumstances. This warning is given to prevent sympathetic fire from other deputies on scene and to allow the suspect one last opportunity to comply.

Use should be in accordance with the deputy's training. However, deputies are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

An individual that has been hit with a PepperBall projectile shall be decontaminated as soon as it is practicable. EMS shall be called to the scene if deputies do not have the proper equipment to do so.

The deputy who deployed the PepperBall system will notify the on-duty supervisor and forward a report to the Chief Deputy.

10.070 Use of Chemical Irritants

Deputies may, at their discretion, carry chemical aerosol irritant commonly known as pepper spray or OC-10 as part of their duty equipment. The purpose of OC-10 is to provide a deputy with a means of affecting an arrest, defending themselves or others or restraining violent persons when other means have failed or are impractical.

An individual that has been sprayed with OC-10 shall be decontaminated as soon as it is practicable. EMS shall be called to the scene if deputies do not have the proper equipment to do so.

Whenever OC-10 is used, the deputy involved will notify the on-duty supervisor and submit a written report regarding the circumstances and need for such use and forward such report to the Chief Deputy.

10.080 Conducted Energy Weapons

See chapter 22.

10.090 Use of Neck Restraints

The Lateral Vascular Neck Restraint (LVNR), Carotid Restraint, or any other maneuver that restricts the airway or blood flow to the head shall not be used. Deputies should make every effort to avoid resting weight on a subject's neck when taking them into custody.

10.100 Spit Hoods

If it is necessary to place a spit hood on an individual, the arresting deputy shall take care to monitor and ensure the subject is breathing normally. A use of force report shall be completed and forwarded to the Chief Deputy.

10.110 Use of Weapons

Firearms, Weapons and Ammunition - General Rules of Conduct

This statement of policy and the accompanying rules are for internal department use only and are not to be applied in any criminal or civil proceeding, nor do they create a higher legal standard of safety or care with respect to third parties. Violations of the rules based on this policy will only be the basis of administrative discipline, while violations of the law will be the basis for civil and criminal penalties in a court of law.

Authorized Use

Deputies should use only the minimum amount of force necessary to effect an arrest or control a person. The objective of the use of force is to overcome resistance offered by an offender. Deadly force may only be used by deputies when they reasonably believe that it is necessary to protect against an immediate threat of serious physical injury or death to themselves or another person. An immediate threat exists when based on the totality of circumstances, it is objectively reasonable to believe the person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the deputy or another person. Necessary means that, under the totality of the circumstances, a reasonably effective alternative to the use of deadly force does not exist, and that the amount of force used was a reasonable and proportional response to the threat posed to the deputy or others. If possible, deputies should try to use less lethal means prior to applying deadly force.

Deadly force must not be used unless a deputy first gives a verbal warning to the suspect, but the warning must only be given if it is feasible under the circumstances.

Deputies will not draw or display their handgun unless there is strong reasonable cause to believe that it may be necessary to lawfully use the weapon in accordance with this policy. This does not apply to general maintenance, storage, or authorized training. If any deputy points their weapon at a citizen a use of force report will be completed so that the Chief Deputy can track the use of force.

Deputies may fire their weapons to kill a dangerous animal, or to kill an animal so badly injured that humanity requires its removal from further suffering.

Deputies will not unreasonably or unnecessarily endanger themselves or the public in applying this policy.

Unauthorized Use

A. The following practices are specifically forbidden:

1. Firing into crowds.
2. Firing a warning shot.
3. Firing into a building or through doors when the person fired at is not clearly visible unless deputies are being fired upon from such building or through such door.
4. When there is any substantial danger to innocent bystanders. (When in doubt, don't shoot.)
5. Firing at a moving vehicle or from a moving vehicle unless absolutely necessary in defense of self or others against the suspect's use of deadly force. A vehicle will only be considered a deadly weapon if the vehicle itself is actively being used as a weapon.

6. Non-commissioned employees will not carry any firearms while on duty or in uniform without approved training and written permission from the Sheriff. NOTE: "Carried" includes on the person or in a departmental vehicle.

10.120

Authorized Weapons

Glock 17 or Glock 19 (9mm) handguns and magazines will be issued to each commissioned deputy and will be carried as the primary sidearm. Deputies may carry personal handguns as backup weapons at the approval of the Sheriff. Firearms instructors will inspect the firearm as to condition and serviceability and the deputy shall complete a backup qualification course with the weapon.

Rifles and 12-gauge shotguns will be issued by the department for patrol use.

Request by deputies to carry personal shotguns or rifles shall be approved by the Sheriff and a qualification course shall be completed. The rifle must be 5.56 NATO or 9mm in caliber with a barrel length of 16" to 20". The rifle may have a barrel less than 16" if the deputy possesses all legal paperwork required or it is a pistol under ATF classification. The rifle must have a fully functional safety and a minimum trigger pull of 5.5 pounds. The rifle must be inspected by a firearms instructor to ensure it meets the above criteria prior to the Sheriff's approval. Shotguns will be 12-gauge in caliber. Deputies must keep in mind that their personal property may be taken as evidence if used in an incident. The department will temporarily issue the deputy a department rifle or shotgun.

The Sheriff may authorize a designated marksman to carry a scoped rifle in either 5.56 NATO or .308 Winchester. If the deputy chooses to carry their personal rifle it must be approved by the Sheriff.

Department handguns shall not be modified in any way whatsoever unless done by a firearms instructor/armorer at the direction of the Sheriff. Any other departmental weapon may not be mechanically modified in any way, but accessories may be added or changed. Any issued department weapon shall be returned in the original configuration with the original parts it was issued with.

Deputies are encouraged, but not required, to carry a handgun while off duty. A deputy who elects not to carry a handgun while off duty shall not be subject to disciplinary action if an occasion should arise in which they could have taken police action if armed. EXCEPTION: Off duty deputies while operating a department vehicle shall be armed with an approved weapon.

If a handgun is carried and the deputy is not in uniform, the weapon will be completely concealed from public view or carried in a manner that conforms with State law. This does not apply to open carry of firearms while engaging in back country activities.

It is the responsibility of deputies to keep all firearms authorized by this department clean, oiled, free of rust and corrosion and in perfect firing condition at all times. Deputies who are careless or negligent in the care or use of a firearm will be subject to disciplinary action.

Deadly Use of Force

In the event of a deadly use of force incident by a deputy of this department while in performance of their duties, the following procedure will be followed:

1. Render appropriate aid as soon as it is safe to do so.
2. The Sheriff, Undersheriff, and Chief Deputy will be notified immediately.
3. A representative from an outside agency selected by the Sheriff shall immediately initiate an investigation using either the Northeast Washington Independent Investigative Team (NEWIIT) and/or the state Office of Independent Investigations (OII). NEWIIT will use all the protocols outlined in WAC 139-12-010, 139-12-020 and 139-12-030 to include the use of non-law enforcement community member(s).
4. The deputy(s) involved will be placed on Administrative Leave and the weapon(s) involved will be surrendered pending the completion of the investigation. A replacement weapon will be provided to the deputy(s) as soon as possible unless circumstances dictate otherwise. This procedure will in no way reflect wrongdoing on the part of the deputy(s) involved.
5. The investigation will be conducted solely by either NEWIIT and/or OII. A deputy of this department may not enter into the investigation other than to secure the original scene, preserve evanescent evidence and offer peer support to deputies involved.
6. After completion of the investigation, NEWIIT and/or OII shall forward their findings to the Prosecutor and/or the state Attorney General's Office. The findings will be reviewed by the Sheriff or his designee for any possible policy violations. The Prosecutor and/or State Attorney General or their designee will determine any possible law violations.
7. A deputy may be returned to duty at the discretion of the Sheriff prior to the outcome of the investigation. In the case of serious injury or death, no deputy shall be returned to duty without first speaking with a psychologist retained by the department and qualifying with their weapon.

Discharged Weapon - Report Required

Any time a deputy of this department discharges a firearm, either deliberately or accidentally in the performance of their duties, they will immediately or as soon as possible notify their immediate supervisor in writing, setting forth the circumstances of the incident. The supervisor will investigate and report to the Chief Deputy. This applies only to situations that do not meet the requirement of a NEWIIT/OII callout.

EXCEPTION: Weapons discharged to dispose of an injured deer or other wildlife need not be reported.

Firearms Qualification

All commissioned personnel will be required to qualify at times determined by the firearms instructor(s) or at a minimum of at least annually with their department approved handgun carried on duty. In addition, each deputy will be required to qualify at least once annually with any handgun authorized by the department as a "backup weapon". Deputies failing to qualify will be rescheduled and attend additional firearms training. Failure to qualify after additional firearms training may be grounds for disciplinary action, including dismissal.

Additional qualifications and/or training may be conducted as deemed necessary. It is the responsibility of each deputy to ensure they meet the qualification requirements. Firearms instructors will conduct annual refresher training on the lawful use of deadly force at that time.

Instructors will always maintain absolute order while conducting any type of firearms training. They will have the responsibility and authority to dismiss from the range any deputy who is disrupting the training/qualification. In the event of such dismissal, instructors will notify the Chief Deputy in writing setting forth the circumstances of the incident. Disciplinary action may be taken against the offender.

Shotgun/Rifle

Shotgun and rifle familiarization/training will be conducted at least once annually. All commissioned deputies are required to fire.

Ammunition

Only that ammunition which is approved and issued by the department is authorized for duty use.

Use of Force Simulator

The department will work with the County's insurance provider to offer interactive use of force scenario training annually. This will include various shoot/no shoot options.