

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this office is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the deputy or another person.

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows a deputy to search, escort, handcuff, or restrain the person.

Imminent - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

Totality of the circumstances - All facts and circumstances known to the deputy at the time, taken as a whole, including the conduct of the deputy and the subject leading up to the use of force (RCW 10.120.010).

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Deputies are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Deputies must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Thurston County Sheriff's Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting deputies with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

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300.2.1 DUTY TO INTERCEDE AND REPORT

Any deputy present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force (RCW 10.93.190).

Any deputy who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible (RCW 10.93.190).

300.2.2 LEGISLATIVE INTENT

When observing or reporting force used by a law enforcement officer, each deputy should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

The legislature intends to address excessive force and discriminatory policing by establishing a requirement for law enforcement and community corrections officers to act with reasonable care when carrying out their duties, including using de-escalation tactics and alternatives to deadly force. Further, the legislature intends to address public safety concerns by limiting the use of deadly force to very narrow circumstances where there is an imminent threat of serious physical injury or death. It is the intent of the legislature that when practicable, peace officers will use the least amount of physical force necessary to overcome actual resistance under the circumstances.

It is the fundamental duty of law enforcement to preserve and protect all human life. **(HB1310)**

300.2.3 ADDITIONAL STATE REQUIREMENTS ON THE DUTY TO INTERCEDE AND REPORT

A deputy shall not be disciplined for or retaliated against in any way for intervening in good faith or for reporting in good faith the unreasonable use of force by another law enforcement officer (RCW 10.93.190) (see the Anti-Retaliation Policy).

300.3 USE OF FORCE

Deputies shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable deputy on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputies are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation a deputy might encounter, deputies are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

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It is also recognized that circumstances may arise in which deputies reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by this office. Deputies may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires a deputy to retreat or be exposed to possible physical injury before applying reasonable force.

"Imminent threat of serious physical injury or death" means that, based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person.

"Necessary" 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 officer and others.

"Totality of the circumstances" means 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.

A peace officer shall use reasonable care when determining whether to use physical force and when using any physical force against another person. To that end, a peace officer shall:

(a) When possible, exhaust available and appropriate de-escalation tactics prior to using any physical force, such as:

- Creating physical distance by employing tactical repositioning and repositioning as often as necessary 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;
- Calling for additional resources such as a crisis intervention team or mental health professional when possible;
- Calling for back-up officers when encountering resistance;
- Taking as much time as necessary, without using physical force or weapons; and
- Leaving the area if there is no threat of imminent harm and no crime has been committed, is being committed, or is about to be committed.

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(b) When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. This includes a consideration of the characteristics and conditions of a person for the purposes of determining whether to use 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 3074.34.020;
- 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
- Is in the presence of children.

(c) Terminate the use of physical force as soon as the necessity for such force ends;

(d) When possible, use available and appropriate less lethal alternatives before using deadly force; and

(e) Make less lethal alternatives issued to the officer reasonably available for their use.

A peace officer may not use any force tactics prohibited by applicable departmental policy, this chapter, or otherwise by law, except to protect his or her life or the life of another person from an imminent threat. **(HB1310)**

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

When circumstances reasonably permit, deputies should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion) (RCW 10.120.010; RCW 10.120.020).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a deputy has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to deputies or others.

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- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of suspected drug or alcohol use (RCW 10.120.020).
- (e) The individual's mental state or capacity (RCW 10.120.020).
- (f) The individual's ability to understand and comply with deputy commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and the individual's ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the deputy.
- (l) Potential for injury to deputies, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) The individual is visibly pregnant or claims to be pregnant (RCW 10.120.020).
- (s) The individual is a minor, appears to be a minor, or claims to be a minor (RCW 10.120.020).
- (t) The individual is known to be a vulnerable adult or appears to be a vulnerable adult as defined by RCW 74.34.020 (RCW 10.120.020).
- (u) The individual has limited English proficiency (RCW 10.120.020).
- (v) The individual is in the presence of a child (RCW 10.120.020).
- (w) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Deputies may only apply those pain compliance techniques for which they have successfully completed office-approved training. Deputies utilizing any pain compliance technique should consider:

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- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the deputy.
- (c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the deputy determines that compliance has been achieved.

300.3.4 CAROTID CONTROL HOLD

All neck restraints and choke hold techniques are prohibited. **(HB1054)**

For the purposes of this section;

- (a) **Choke hold** is defined as any tactic in which direct pressure is applied to a person's trachea or windpipe or any other tactic intended to restrict another person's airway.
- (b) **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.

300.3.5 STATE REPORTING

Supervisors and deputies completing use of force reports must be aware that each law enforcement agency in the state is required to report each incident where a law enforcement officer employed by the agency used force and:

- (a) A fatality occurred in connection with the use of force;
- (b) Great bodily harm occurred in connection with the use of force;
- (c) Substantial bodily harm occurred in connection with the use of force; or
- (d) A law enforcement officer:
 - (i) Discharged a firearm at or in the direction of a person;
 - (ii) Pointed a firearm at a person;
 - (iii) Used a choke hold or vascular neck restraint;
 - (iv) Used an electronic control weapon including, but not limited to, a taser, against a person;
 - (v) Used oleoresin capicum spray against a person;
 - (vi) Discharged a less lethal shotgun or other impact munitions at or in the direction of a person;
 - (vii) Struck a person using an impact weapon or instrument including, but not limited to, a club, baton, or flashlight;
 - (viii) Used any part of their body to physically strike a person including, but not limited to, punching, kicking, slapping, or using closed fists or feet;
 - (ix) Used a vehicle to intentionally strike a person or vehicle;

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- (x) Deployed a canine by releasing it from the physical control of the law enforcement officer or had under the law enforcement officer's control a canine that bites a person.

Supervisors and deputies must capture pertinent data regarding each use of force event to include the below elements which are required in each report:

- (a) The date and time of the incident;
- (b) The location of the incident;
- (c) The agency or agencies employing the law enforcement officers;
- (d) The type of force used by the law enforcement officer(s);
- (e) The type of injury to the person against whom force was used, if any;
- (f) The type of injury to the law enforcement officer(s), if any;
- (g) Whether the person against whom force was used was armed or unarmed;
- (h) Whether the person against whom force was used was believed to be armed;
- (i) The type of weapon the person against whom force was used was armed with, if any;
- (j) The age, gender, race, and ethnicity of the person against whom force was used, if known;
- (k) The tribal affiliation of the person against whom force was used, if applicable and known;
- (l) Whether the person against whom force was used exhibited any signs associated with a potential mental health condition or use of a controlled substance or alcohol based on the observation of the law enforcement officer;
- (m) The name, age, gender, race, and ethnicity of the law enforcement officer, if known;
- (n) The law enforcement officer's years of service;
- (o) The reason for the initial contact between the person against whom force was used and the law enforcement officer;
- (p) Whether any minors were present at the scene of the incident, if known;
- (q) The entity conducting the independent investigation of the incident, if applicable;
- (r) Whether dashboard or body-worn camera footage was recorded for an incident;
- (s) The number of officers who were present when force was used;
- (t) The number of suspects who were present when force was used. **(SB5259)**

300.3.6 WASHINGTON STATE LAW - PHYSICAL FORCE

Physical force means 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).

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A deputy may use physical force upon another person to the extent necessary to (RCW 10.120.020):

- (a) Protect against a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense.
- (b) Effect an arrest.
- (c) Prevent an escape as defined under chapter 9A.76 RCW.
- (d) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under RCW 10.77; RCW 71.05; or RCW 71.34.
- (e) Take a minor into protective custody when authorized or directed by statute.
- (f) Execute or enforce a court order authorizing or directing a deputy to take a person into custody.
- (g) Execute a search warrant.
- (h) Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written order where the court expressly authorizes a deputy to use physical force to execute or enforce the directive or order.
- (i) 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 the person is being detained and is not free to leave.
- (j) Take a person into custody when authorized or directed by statute.
- (k) Protect against an imminent threat of bodily injury to the deputy, another person, or the person against whom force is being used.

Deputies shall terminate the use of physical force as soon as the necessity for such force ends (RCW 10.120.020).

300.4 DEADLY FORCE APPLICATIONS

When reasonable, deputies shall, prior to the use of deadly force, make efforts to identify themselves as peace officers and to warn that deadly force may be used, unless a deputy has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is only justified when the deputy reasonably believes it is necessary in the following circumstances (RCW 10.120.020):

- (a) A deputy may use deadly force to protect the deputy or others from what the deputy reasonably believes is an immediate threat of serious physical injury or death.
- (b) A deputy may use deadly force to stop a fleeing subject when the deputy has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the deputy reasonably believes that there is an immediate threat of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

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For purposes of deadly force, an "immediate threat of serious physical injury or death" exists when, 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).

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, deputies should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

A deputy should only discharge a firearm at a moving vehicle or its occupants when the deputy reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle or of deadly force other than the vehicle that is directed at the deputy or others (RCW 10.116.060).

Deputies should not shoot at any part of a vehicle in an attempt to disable the vehicle.

A vehicle is not considered a threat for purposes of this policy unless the operator is using it as a deadly weapon and there are no other reasonable means to immediately avoid that threat (RCW 10.116.060).

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this office shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The deputy should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Office may require the completion of additional report forms, as specified in office policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS 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 caused a visible injury.
- (b) The application would lead a reasonable deputy to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the Conducted Energy Weapon (CEW) or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.

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- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.2 NOTIFICATION TO INDIAN AFFAIRS

When the use of force by a deputy results in the death of a person who is an enrolled member of a federally recognized Indian tribe, notification shall be made to the Governor's Office of Indian Affairs within a reasonable period of time, but not more than 24 hours after the office has good reason to believe the person was an enrolled member. Notice shall include sufficient information for the Governor's Office of Indian Affairs to attempt to identify the deceased person and tribal affiliation (RCW 10.114.021).

300.5.3 NOTIFICATION TO CRIMINAL JUSTICE TRAINING COMMISSION (CJTC)

Notification shall be made to CJTC within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by a deputy (RCW 43.101.135).

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe (RCW 10.93.190).

Based upon the deputy's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another deputy and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling deputy shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the deputy reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple deputies to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Deputies who reasonably suspect a

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medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 - 1. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Determine if there is any indication that the individual may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 PATROL LIEUTENANT RESPONSIBILITY

The Patrol Lieutenant shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Deputies will receive periodic training on this policy and demonstrate their knowledge and understanding.

Deputies shall receive training and subsequent periodic training on (RCW 43.101.450; RCW 43.101.495; RCW 10.120.010; RCW 10.120.020):

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- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force and legal requirements.
- (c) Duty to intercede.

300.9 USE OF FORCE ANALYSIS

At least annually, the Field Operations Chief Deputy should prepare an analysis report on use of force incidents. The report should be submitted to the Sheriff. The report should not contain the names of deputies, suspects, or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

300.10 WASHINGTON STATE LAW - REASONABLE CARE

Deputies shall use reasonable care when determining whether to use and when using any physical force or deadly force against another person. The least amount of physical force necessary shall be used to overcome resistance under the circumstances (RCW 10.120.020).