

INTEROFFICE COMMUNICATION

WASHINGTON STATE PATROL

TO: All WSP Employees
FROM: Chief John R. Batiste
SUBJECT: Use of Force Policies
DATE: November 29, 2022



Pursuant to RCW 10.120.030(1), on July 1, 2022, the Office of the Attorney General (AGO) published a Model Use of Force Policy. RCW 10.120.030(2) expects all law enforcement agencies to adopt policies consistent with the AGO's Model Use of Force Policy by December 1, 2022. Pursuant to RCW 10.120.030(2), the Washington State Patrol (WSP) makes the following policy changes effective December 1, 2022. All WSP officers, Commercial Vehicle Enforcement Officers (CVEOs), and trooper cadets must review these policy changes by December 1, 2022. In the case of an officer, CVEO, or trooper cadet who is away from work (e.g., on leave), the officer, CVEO, or trooper cadet must review the policy changes immediately upon return to work, and in any event, prior to performing any law enforcement duties. These policies may be modified by subsequent General Order(s).

- 1.00.090 PRISONERS (CALEA 4.1.5, 4.1.3.3, 70.1.1, 70.1.2, 70.1.3, 70.1.4, 70.1.5, 70.1.7, 70.2.1, 70.3.1, 70.3.2, 81.2.4)
- 1.00.100 SPIT GUARD (POLICY RENAMED)
- 2.00.010 USE OF FORCE (CALEA 1.2.10, 4.1.1, 4.1.2, 4.1.4, 4.2.1, 4.3.4, 81.2.4)
- 2.00.020 USE OF DEADLY FORCE – WSP OFFICERS (CALEA 1.2.1, 4.1.2, 4.3.4, 11.3.4, 74.3.1)
- 2.00.030 USE OF DEADLY FORCE – WSP CVEOs AND TROOPER CADETS (CALEA 1.2.1, 4.1.2, 4.3.4, 11.3.4)
- 2.00.040 FIREARMS, WSP OFFICERS (CALEA 1.2.1, 4.1.2, 4.1.3, 4.3.4, 11.3.4)
- 2.00.050 FIREARMS, WSP CVEOs AND TROOPER CADETS (CALEA 1.2.1, 4.1.2, 4.1.3)
- 2.00.060 CHOKEHOLD/NECK RESTRAINT (CALEA 1.2.1, 4.1.6, 4.1.7, 4.3.3) (POLICY RENAMED)
- 3.01.010 SIDE HANDLE BATON (CALEA 4.1.4, 4.3.4) (POLICY RENAMED)
- 3.01.020 AEROSOL SUBJECT RESTRAINT (OC) (CALEA 4.1.4, 4.1.5, 4.3.4)



- 3.01.030 ASP BATON/FLASHLIGHT (CALEA 4.1.4, 4.3.2, 4.3.4)
- 3.01.040 ELECTRONIC CONTROL WEAPONS – USE OF (CALEA 4.1.5, 4.2.1, 4.3.2, 4.3.4) (POLICY RENAMED)
- 3.01.050 PROJECTILE IMPACT WEAPONS (CALEA 4.1.4, 4.3.4)
- 22.01.010 REPORTING USE OF FORCE – WSP OFFICERS (CALEA 4.2.1)

Commanders are responsible for distributing this Chief's Directive to all employees under their command. Employees are responsible for reading and understanding new and/or revised policies.

Employees shall acknowledge receipt of this Chief's Directive by utilizing the acknowledgment system in Remedy.

JRB:kh

Attachment

1.00.090 PRISONERS (CALEA 4.1.5, 41.3.3, 70.1.1, 70.1.2, 70.1.3, 70.1.4, 70.1.5, 70.1.7, 70.2.1, 70.3.1, 70.3.2, 81.2.4)

I. POLICY

A. Treatment of Persons in Custody

1. Officers shall treat persons in their custody in accordance with law and established department procedures.
2. Officers should constantly be alert for the safety of themselves, bystanders, and persons in custody. They should be in control of the situation at all times and assume whatever physical and psychological advantages are necessary to maintain that control (see also **REPORTING USE OF FORCE – WSP OFFICERS**).

B. Transportation of Prisoners

1. Prior to being placed in the patrol car and transported, prisoners shall be thoroughly searched in accordance with departmental training.
2. In patrol cars with security partitions, prisoners shall be transported in the back seat with the partitions closed and secured. Prisoners must wear a seat belt when transported in the patrol car, except in situations where an officer's personal safety is at risk, such as a combative prisoner. ~~In addition, the restraint straps may be used to further secure prisoners who are handcuffed to prevent the possibility of harm to the officer or to the patrol vehicle.~~
3. Officers must be aware that upon arresting a person, the time between the arrest and incarceration is very critical for officer safety. A subject facing the loss of freedom may become extremely desperate and dangerous. This unpredictability creates a serious threat to officers. The fact that a criminal submits peacefully to arrest does not guarantee that the individual will not resort to violence or trickery. Therefore, the transporting officer must be on guard for any eventuality.
4. Prisoners should be placed in the patrol vehicle through a rear door that is away from traffic. For this reason, officers should keep the doors unlocked whenever on patrol. The prisoner should be directed to sit in the right rear of the vehicle. This allows the officer, once behind the wheel, the best view of the subject while en route the detention facility. Officers should not lose sight of the prisoner.
5. When transporting prisoners of the opposite sex, additional precaution must be taken. This applies to both male and female officers. The officer shall advise Communications of the starting and ending mileage, the point of origin, and the destination. Further information that includes the subject's name, description, and condition may also be helpful. This information may be supplied to Communications on any prisoner an officer is transporting if there is reason for concern.
6. In those instances where a COBAN video recording device is installed, the prisoner shall be made aware of the presence of the recording device. The video recording device will be activated and record the entire prisoner transport. Instances when the

COBAN device is inoperable will be notated to Communications and logged into the CAD system.

7. In those instances where a partition is not installed, the prisoner shall be handcuffed and placed in the right front seat. The prisoner shall then be seat-belted.
8. When transporting ~~felons or belligerent prisoners~~ **an assaultive person**, officers shall utilize all assistance necessary. In particular instances, it may be necessary to utilize ~~plastic cuffs or~~ **a hobble** restraint strap around the legs in conjunction with handcuffs to prevent damage to the interior of the patrol vehicle or injuries to the prisoner. **Because restraint devices are designed to compel, control, constrain, or restrain a person's movement, use of these devices is physical force and all considerations governing uses of physical force detailed in the USE OF FORCE policy apply to their use. The use of the restraint strap does not necessarily constitute a use of force.** Reporting the use of the restraint strap as a use of force will be according to departmental training **the USE OF FORCE policy.**
 - a. **A hobble restraint is a strap designed to restrain a person's feet in order to control an assaultive person.**
 - b. **Officers shall only use agency-issued hobble restraints.**
 - c. **Prohibited Use: Officers shall not connect a hobble restraint to handcuffs or other types of restraints (i.e., "hog tie" an individual).**
 - d. **Once a hobble restraint is applied, officers shall not place the person face down.**
 - e. **Officers shall monitor individuals who have been placed in a hobble restraint and take immediate action, if necessary, to protect the person's health and safety.**
 - f. **Officers shall discontinue use of a hobble restraint once the necessity for its use ceases.**

9. Supervisor Notification and Investigation of Hobble Restraint Strap Use

- a. **Whenever a hobble restraint strap is used to overcome an assaultive person, the supervisor shall immediately be notified as soon as safe and feasible.**
- b. **If there is no indications or allegations of policy violations and the supervisor believes the use of the hobble restraint strap was appropriate, the supervisor shall complete the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit) as outlined in the *Administrative Investigation Manual*.**
- c. **If it appears that a policy violation may have occurred, the Use of Force (FLUP) and Internal Incident Report (IIR) shall be submitted through the chain of command.**
- d. **The procedures for conducting a use of force investigation are outlined in the RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION and the RESPONSIBILITIES – LETHAL**

**USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF
INDEPENDENT INVESTIGATIONS (OII) QUALIFYING EVENT policies as well
as the *Administrative Investigation Manual*.**

C. General Precautions

1. Prisoners should be transported to detention facilities as soon as practical and without delays en route.
2. Prisoners shall not be allowed to communicate with anyone during transportation.
3. Officers shall not stop violators nor engage in any pursuit activity while transporting a prisoner unless there are no viable alternatives and the circumstance is of such urgency as to warrant the stop or pursuit.
4. Prisoners should not be transported together when there is a possibility of harm occurring to any of the prisoners. Juveniles and adults should not be transported together if custody is for non-related offenses.
5. Officers shall search the vehicle—especially under the back seat—at the beginning of each shift if the vehicle has been out of their possession (repair shop, loan to another person, etc.) and after each transportation detail to look for any contraband, weapons, or personal property that may have been left by the prisoner. The results of such search shall be noted by the officer. Evidence or weapons shall be processed in accordance with departmental property procedures.
6. Belligerent prisoners should be transported alone and handcuffed. The seat belt shall be used to further secure the prisoner to prevent harm to the officer or damage to the patrol vehicle.
7. If the vehicle is equipped with seat belts, all prisoners shall wear them.

D. Injured Prisoners – Medical Attention

1. Officers having injured prisoners in their custody shall ensure that medical attention is made available. This may require transporting the prisoner to a hospital, clinic, doctor's office, or similar facility, or in less serious circumstances, providing them an opportunity to call a physician to attend to their needs.
2. The duty sergeant or the officer's immediate supervisor shall be notified as soon as practical of all situations in which medical attention is required by or made available to prisoners.

E. Screening of Prisoners

1. In an effort to transmit all important information to the jail custodian, it is suggested that the custodian be apprised of any unusual circumstances relating to the arrest and the prisoner in question.

2. Such circumstances might include the health of the subject, the mental condition (suicidal, depressed, etc.), involved in a motor vehicle collision, etc.

F. Treatment of Persons in Custody

1. The authority of officers does not include the right to persecute any prisoner or to mete out punishment for any offense. Officers should bear in mind that it is not a crime for a person to offend the personal feelings of a police officer.
2. Officers should conduct themselves in such a manner as will minimize the possibility of having to use force against a person.
3. Officers should allow prisoners reasonable use of toilet facilities.

G. Precautions at Detention Facilities

1. Officers should walk behind the prisoner, keeping a safe distance while remaining close enough to retain control and prevent anyone from approaching the prisoner. Officers should not position themselves between two prisoners.
2. Officers' weapons should be secured either in a receptacle for that purpose, or in the trunk of the patrol vehicle whenever the officer is going to be within close proximity to a prisoner, such as when conducting a breath test.
3. Responsibility for the prisoner is not relinquished by the officer until the detention facility officially accepts the subject, or until the subject is released to a responsible person. The name and address of any person taking responsibility for a prisoner should be noted by the officer.

H. Transportation From One Facility to Another

1. When transporting prisoners from one facility to another, the officer shall ensure the necessary paperwork required by the detention facility/court accompanies the prisoner and is presented to the receiving officer/court (e.g., medical records, case reports, warrants, sentences imposed, etc.). In addition, when a prisoner is to be released to another officer, facility, or court, the officer shall obtain the signature of that person to whom the prisoner is released.
2. Officers shall confirm the identity of each prisoner being transported. This shall be accomplished by verifying with the detention facility the booking records, photographs, and/or contact with the original arresting officer.

I. Prisoner Escape

1. If a prisoner escapes custody, the officer shall notify Communications and make a reasonable attempt to capture the prisoner.
2. If the prisoner remains at large, the officer shall advise Communications to notify the duty sergeant. Communications should also be advised to notify local law enforcement agencies in the geographic area.

3. The officer shall prepare a report detailing the reason for the escape and the actions taken in trying to locate the escaped prisoner.

Applies to: WSP Officers

See Also: RCWs 10.120.020, 10.120.030, 46.37.510, 46.61.688; WAC 204-41-030; Reporting Use of Force Form WSP Policy Policies Use of Force; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OI) Qualifying Event; Use of Force FLUP; Internal Incident Report; Administrative Investigation Manual

1.00.100 SPIT SOCK HOOD GUARD

I. POLICY

A. ~~The Spit Sock Hood is manufactured from a light weight, see-through, protective mesh material used to prevent contamination of saliva from subjects physically arrested. The design allows the subject to easily breathe, while preventing most saliva from being projected to the outside of the Spit Sock Hood. When practical, officers should notify Communications prior to and after use.~~ A spit guard (e.g., spit sock hood) 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, mucus, and blood.

B. Because restraint devices are designed to compel, control, constrain, or restrain a person's movement, use of these devices is physical force and all considerations governing uses of physical force detailed in the **USE OF FORCE** policy apply to their use.

C. Standard of Use:

1. When practical, officers should notify Communications prior to and after use.
2. An officer/trooper cadet may apply a spit guard when lawfully restraining or attempting to restrain an individual who is spitting or biting.
3. Officers/trooper cadets applying the spit guard 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.
4. Only officers/trooper cadets who have successfully completed agency-approved training on application of a spit guard are authorized to use one.
5. Only department-issued or approved spit guards shall be used.

D. Restricted Uses:

1. Persons who have been sprayed with OC spray should be decontaminated so their breathing is not distressed prior to application of a spit guard.

2. For individuals in mental health crisis, application of a spit guard may provoke an elevated level of distress. Officers/trooper cadets should provide verbal reassurance and dynamically assess the situation to remove the spit guard as soon as appropriate.

E. Prohibited Uses. Officers/trooper cadets shall not apply a spit guard in the following situations because of higher risks:

1. Where the restrained person is bleeding profusely from the area around the mouth or nose.

2. 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.

3. On an individual who states that they have a medical condition that affects their breathing, or who demonstrates symptoms of labored or distressed breathing.

F. Prior to application of a spit guard, an officer/trooper cadet shall warn the individual and provide a reasonable time for the person to comply with the officer's/trooper cadet's commands. If applied, the officer/trooper cadet shall remove the spit guard as soon as the threat of spitting or biting has ended, or the officer/trooper cadet observes that the spit guard is no longer necessary.

G. When an officer/trooper cadet has determined a subject is likely to or has spit, the officer/trooper cadet should place the ~~soek~~ spit guard over the subject's face and head. The officer's/trooper cadet's determination that a ~~Spit Soek Hood~~ spit guard is necessary must be based on objectively reasonable facts that the subject poses an immediate threat to spit on the officer/trooper cadet or other persons. For officer safety, it is recommended the placement of the ~~Spit Soek Hood~~ spit guard be witnessed by a second officer, if reasonable. The subject should be observed throughout the duration of the subject wearing the ~~Spit Soek Hood~~ spit guard. If any signs of medical distress are observed, the officer/trooper cadet should remove the ~~Spit Soek Hood~~ spit guard, initiate first aid, and/or call for emergency medical help, if needed. The ~~Spit Soek Hood~~ spit guard should be loose-fitting while on the subject's head.

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

~~C. Only department issued or approved Spit Soek Hoods shall be used.~~

~~D. I.~~ The ~~Spit Soek Hood~~ spit guard shall be used only once and then disposed of as a biohazard.

~~E. J.~~ If a single ~~Spit Soek Hood~~ spit guard is not sufficient to stop the spit, a second ~~Spit Soek Hood~~ spit guard may be placed over the first ~~Spit Soek Hood~~ spit guard in the same manner.

F.K. Use of the Spit Sock Hood spit guard is to be documented by the supervisor on the Use of Force Review form in the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit), only if used in conjunction with another type of use of force tool/technique. The use of the Spit Sock Hood spit guard alone would not need to be documented on the Use of Force Review form FLUP. Application of a spit guard in all other circumstances must be documented in the officer's investigative report.

Applies to: WSP Officers, Trooper Cadets

See Also: Use of Force Review Form RCWs 10.120.020 and 10.120.030; WSP Policy Use of Force; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OI) Qualifying Event; Use of Force FLUP; Internal Incident Report; Administrative Investigation Manual

2.00.010 **USE OF FORCE** (CALEA 1.2.10, 4.1.1, 4.1.2, 4.1.4, 4.2.1, 4.3.4, 81.2.4)

I. DEFINITION

- A. *Use of force* means power dynamically considered, that is, in motion or in action; constraining power, compulsion; strength directed at an end. Force may be applied through the use of a person's body, weapons, equipment, and/or other instruments. For the purpose of this policy, *use of force* includes but is not limited to physical force.
- B. *Excessive force* means force that exceeds the force permitted by law or WSP policy.
- C. *Intervene* means verbal and/or physical action by an on-duty officer to prevent or stop another peace officer from using excessive force.
- D. *Reasonable belief* means the facts or circumstances the officer knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- E. *Totality of the circumstances* means all facts known to the officer leading up to and at the time of the use of force, and includes the actions of the person against whom the officer uses such force, and the actions of the officer.
- F. *Wrongdoing* is defined as conduct observed by an on-duty officer that is contrary to law or WSP policies, provided the conduct is not *de minimis* or technical in nature.
- G. *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.
- H. *Necessary* means that, under the totality of the circumstances, a reasonably effective alternative to the use of physical force or deadly force does not appear to exist, and the type and amount of physical force or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others.

- I. *De-escalation tactics* means actions used by an officer that are intended to minimize the likelihood of the need to use force during an incident. Using physical force is not a de-escalation tactic.
- J. *Compression asphyxia* means an inadequate oxygen level in the blood and/or an excessive increase of carbon dioxide in the blood causing unconsciousness or death brought on by mechanically limiting expansion of the lungs through compressing of the chest and/or abdomen, interfering with breathing.
- K. *Positional asphyxia* is an inadequate oxygen level in the blood and/or an excessive increase of carbon dioxide in the blood causing unconsciousness or death brought on by a person being placed in a body position which compresses their airway and does not allow them to breathe freely.
- L. *Less lethal alternatives* include, but are not limited to, verbal warnings, de-escalation tactics, electronic control weapons, devices that deploy oleoresin capicum, batons, and beanbag rounds.
- M. *Feasible* means reasonably capable of being done or carried out to achieve the arrest or lawful objective without increasing risk of harm to the officer or another person.

II. OVERARCHING PRINCIPLES

- A. It is the fundamental duty of law enforcement to preserve and protect all human life. Officers shall respect and uphold the dignity of all persons and use their authority in a bias-free manner.
- B. The proper use of force is essential to ensure impartial policing and build trust in the community. While there are circumstances where individuals will not comply with the law unless compelled or controlled by officers through the use of force, officers must remain mindful that they derive their authority from the community and that unreasonable force degrades the legitimacy of that authority.

III. POLICY

A. Critical Decision Making

1. Use of critical decision making can help officers achieve the expectations outlined in this policy. When safe and feasible, when making, or considering whether to make, contact with a member of the public, officers shall:
 - a. Begin assessment and planning with available facts before arriving at the scene;
 - b. Request available resources, as needed, such as a crisis intervention team or other appropriate specialty unit or professionals;
 - c. Collect information when on scene;
 - d. Assess situations, threats, and risks;
 - e. Identify options for conflict resolution;

- f. Determine a reasonable course of action; and
- g. Review and re-assess the situation as it evolves.

2. Nothing in this policy precludes officers from taking quick action when faced with a life-threatening situation, such as an active shooter. When safe and feasible, officers shall not unnecessarily jeopardize their own safety or the safety of others through tactical decisions that unreasonably place themselves or others at risk, including, but not limited to:

- a. Immediately approaching a person without proper evaluation of the situation;
- b. Leaving insufficient space between an officer and the person;
- c. Not providing time for a person to comply with commands; or
- d. Unnecessarily escalating a situation.

B. Identification, Warning & Opportunity to Comply Prior to the Use of Physical Force

1. When safe and feasible, prior to the use of physical force, officers shall:
 - a. Identify themselves as law enforcement officers;
 - b. Attempt to determine whether the person has a special need, mental condition, physical limitation, developmental disability, language barrier, or other factor that may impact their ability to understand and comply with officer commands;
 - c. Provide clear instructions and warnings;
 - d. Warn a person that physical force will be used unless their resistance ceases; and
 - e. Give the person a reasonable opportunity to comply with the warning that physical force may be used.

C. Reasonable Use of Physical Force

1. Law enforcement encounters rapidly evolve and are not static. Thus, officers must continuously assess the necessity and effectiveness of their actions, including their tactical positioning, to decrease the likelihood of needing to use physical force.
 - a. 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.
 - (1) Reasonableness shall be evaluated based on the totality of circumstances known to the officer leading up to, and at the time of, the use of physical force, including the immediacy of the threat, the actions of the person against whom force is used, the actions of the officer, and the seriousness of the law enforcement purpose. Determining whether physical force is reasonable includes assessing whether the officer made tactical decisions to minimize

unnecessary risk to themselves and others, used all available and appropriate de-escalation tactics when possible prior to using physical force and exercised reasonable care when using physical force.

(2) Proportionality shall be evaluated based on whether the use of physical force corresponds to the immediacy and severity of the threat or resistance the officer encounters at the time force is applied, as well as the seriousness of the law enforcement objective that is being served. The threat or resistance may change over the course of the incident. Proportional force does not require officers to use the same type or amount of physical force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be proportional.

2. An officer may only use reasonable physical force to lawfully perform the officer's duties in accordance with this policy and all applicable laws.

3. Officers are not required to exhaust one type of force before moving to greater force.

a. Lower Level Physical Force: This type of force is not intended to and has a low probability of causing injury, but may cause momentary discomfort or pain. Depending on the circumstances, including the characteristics and conditions of the person, lower level force options may include:

(1) Techniques to direct movement (e.g., push back, escort, lift, carry);

(2) Control holds (e.g., wrist locks, finger locks, joint manipulation);

(3) Open hand techniques;

(4) Takedowns; or

(5) Use of a hobble restraint.

b. Intermediate Physical Force: This type of physical force poses a foreseeable risk of significant injury or harm but is neither likely nor intended to cause death.

Depending on the totality of the circumstances, intermediate physical force may be reasonable when a person threatens imminent assault upon the officer or others. Intermediate force options include:

(1) Oleoresin Capsicum (OC) spray;

(2) Electronic control weapons;

(3) Projectile Impact Weapons;

(4) Canine bite or injury caused by physical contact between a canine and a subject;

(5) Impact weapon strikes (except impact weapon strikes to the head, neck, throat, or spine); or

(6) Punches, kicks or other strikes with an officer's body.

(a) Officers shall only use striking techniques directed at a subject's head as a means of self-defense, or in the defense of others. Striking at a person's head using fists, elbows, knees, and feet, shall not be used as a means of pain compliance.

2.4. An officer may not use a chokehold or neck hold/restraint (see **CHOKEHOLD/NECK HOLDS RESTRAINT**), but may otherwise use physical force against a person to the extent necessary to:

- 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 RCW chapter 9A.76;
- d. Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under RCW chapter 10.77, 71.05, or 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 peace officer 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 peace officer 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 he or she is being detained and is not free to leave;
- j. Take a person into custody when authorized or directed by statute; or
- k. Protect against an imminent threat of bodily injury to the officer, another person, or the person against whom force is being used.
- l. Execute any other community caretaking function, including but not limited to performing welfare checks, assisting other first responders and medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any members of the public.

3.5. In any application of force, an officer shall 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. To that end, an officer shall:

- a. When possible, use all de-escalation tactics that are available and appropriate under the circumstances before using physical force. De-escalation tactics may

include, but are not limited to:

- (1) Using clear instructions and verbal persuasion;
- (2) Attempting to slow down or stabilize the situation so that more time, options, and resources are available to resolve the incident;
- (3) Creating physical distance by employing tactical repositioning to maintain the benefit of time, distance and cover;
- (4) When there are multiple officers, designating one officer to communicate in order to avoid competing **or confusing** commands;
- (5) Requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder or other behavioral health professional, or backup officers, **including more experienced officers or supervisors**;
- (6) **Placing barriers or using existing structures to provide a shield or other protection between officers and a person;**
- (7) **Employing verbal and non-verbal communication techniques to calm a person (such as, speaking slowly, regulating tone and body language, uncrossing one's arms, minimizing hand gestures, and reducing bright, flashing lights and sirens);**
- (8) **Attempting to communicate in non-verbal ways when verbal instructions would be inadequate (such as, when the person and officer speak different languages, or the person is unable to hear or understand instructions);**
- (9) **Communicating in a way that demonstrates respect for people's dignity (such as, clearly explaining the officer's actions and expectations, listening to the person's questions and concerns and responding respectfully, and being neutral and fair when making decisions);**
- (10) **Exhibiting patience while using all available and appropriate tactics and resources to provide as much time as needed to resolve the incident without using physical force.**

- b. ~~When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. To this end, an officer should consider the characteristics and conditions of a subject 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 whether the subject(s)~~ Consider people's characteristics and conditions, including children, elderly persons, pregnant individuals, Limited English Proficiency speakers and those demonstrating mental, behavioral, physical, cognitive and perceptual impairments or disabilities, when determining whether to use physical force or deadly force, and if necessary, the appropriate and least amount of physical force possible to effect a lawful purpose.

c. Nothing in this policy limits or restricts an officer's ability to respond to a call for community caretaking or protection of health and safety, and to use the appropriate and least amount of physical force to execute those functions. The same standards for using physical force apply. However, incidental touching, which may occur in the course of community caretaking, is not defined as physical force.

d. Consider the characteristics and conditions of a person for the purposes of determining whether to use physical force or deadly force against that person and, if physical force is necessary, determine the appropriate and least amount of physical force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person:

- (1) Is visibly pregnant, or states that they are pregnant;
- (2) Is known to be a minor, objectively appears to be a minor, or states that they are a minor;
- (3) Is known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined in RCW 74.34.020;
- (4) Displays signs of mental, behavioral, intellectual, developmental or physical impairments or disabilities;
- (5) Is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs;
- (6) Is suicidal;
- (7) Has limited English proficiency; or
- (8) Is in the presence of children.

e. Use the least amount of physical force necessary to overcome resistance under the circumstances.

f. Terminate the use of physical force as soon as the necessity for such force ends.

g. The WSP will make less lethal alternatives reasonably available for use. When possible, use less lethal alternatives that are available and appropriate under the circumstances before using deadly force.

h. Provide or facilitate first aid at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.

B-D. Reportable Uses of Force

1. Physical take-downs, leg sweeps, or any technique which forcibly requires the subject to end up on the ground from means other than his/her own.

2. ~~Restraint Strap~~ **Hobble restraint strap**, if used to overcome ~~combative resistance or aggression~~ **an assaultive person**.
3. Use of OC-10.
4. Use of ~~the Taser~~ **an electronic control weapon (e.g., TASER)**.
5. Striking with **personal weapons (e.g., hand/, fist, elbow, knee or foot)**.
6. Any use of an impact tool, whether designed for that function or not.
7. Any action that results in a complaint of injury and/or any form of visible injury to a subject.
8. Use of the Pursuit Immobilization Technique at 40 miles per hour or higher.
9. Use of a vehicle in an act of intentional intervention.
10. Use of any firearm (*including unintentional discharge*), except as outlined in the **ANIMAL DESTRUCTION** policy.
11. **Pointing a firearm at a person.**

C.E. Reporting Use of Force

1. ~~It~~ **When it becomes safe and feasible, in** any instance where an officer uses force, the officer shall immediately notify a supervisor.
2. If an arrest is made, the officer shall complete an arrest report and any other reports necessary to satisfy prosecutorial requirements.

D.F. Duty to Intervene, ~~Render Aid~~, and Report

1. A readily identifiable uniformed officer shall, when in a position to do so, intervene to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force by a peace officer.
2. ~~An officer shall provide or facilitate first aid at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.~~
3. ~~An~~ **When safe and feasible, an** officer shall immediately report to a supervisor when the officer:
 - a. Is involved in an intervention;
 - b. Observes excessive force by another peace officer; or
 - c. Observes wrongdoing by another peace officer, or has a good faith reasonable belief, that another peace officer has committed wrongdoing.
4. ~~3.~~ An officer shall not be disciplined or retaliated against in any way for intervening in good faith or reporting wrongdoing in good faith.

G. Duty to Provide or Facilitate First Aid

1. An officer shall provide or facilitate first aid such that it is rendered at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.
2. Injured persons and restrained persons shall be monitored while in law enforcement custody.
3. Consistent with training, officers shall take the following actions to reduce the risk of positional asphyxiation and compression asphyxiation:
 - a. As soon as safe and feasible after handcuffing or otherwise restraining a person taken to the ground, roll the person to the side and move them to an upright position that does not impede the mechanism of normal breathing, except if they are unconscious. This requirement is especially important when the person is handcuffed in the prone position.
 - (1) Exception: If the person is conscious and expresses a desire to be placed in a different position, the officers shall place them in that position unless doing so poses a substantial risk of safety to the individual, officers, or others.
 - b. Do not put prolonged pressure on the chest, neck or back, including by sitting, kneeling, or standing.
 - c. Continuously monitor the person's condition while being restrained, as death can occur suddenly and develop beyond the point of viable resuscitation within seconds. Monitoring includes, but is not limited to, assessing the adequacy of the individual's breathing, color, and any impairment as verbalized by the individual.
 - d. Whenever possible during team restraint when staffing limitations allow, the ranking officer shall designate a "Safety Officer." The Safety Officer shall monitor the health and welfare of the person until:
 - (1) Responsibility is transferred to a health care professional (e.g. EMT, paramedic); or
 - (2) The person is placed in a seated position in a transport vehicle and verbalizes to the Safety Officer that they feel okay, and the person appears to the Safety Officer to be well and speaking normally.
 - e. If the Safety Officer becomes aware of an issue with the person's breathing, color, or any impairment, they shall inform the ranking officer.
 - f. Do not transport a restrained person in the prone position.

~~E.~~H. Investigation of Use of Force

1. The use of force investigation process evaluates the appropriateness of the force, alternatives to the force, tactics used to administer the force, or the training and supervisory concerns related to the use of force incident.
2. Use of force shall be investigated by a supervisor.

3. Use of deadly force resulting in death, substantial bodily harm, or great bodily harm shall be subject to an independent criminal investigation by an independent investigation team (IIT), Office of Independent Investigations (OII), or another single law enforcement agency.
4. The procedures for conducting a use of force investigation are outlined in the ~~Use of Force~~ **RESPONSIBILITIES – INVESTIGATION** policy and **RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION** and the **RESPONSIBILITIES – LETHAL USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF INDEPENDENT INVESTIGATIONS (OII) QUALIFYING EVENT** policies as well as the *Administrative Investigation Manual*.
5. If there are no indications or allegations of policy violations, the supervisor shall complete a use of force investigation and the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit).
6. If there appears that a policy violation may have occurred, the supervisor shall submit the Use of Force FLUP and an Internal Incident Report (IIR) through the chain of command. ~~If a policy violation is suspected or alleged, in addition to completing the IIR, the supervisor shall ensure that the division/district commander is notified of the incident and briefed on the facts leading the supervisor to believe a violation has occurred.~~

I. Use of Force Training

1. Use of force policies, to include definitions, shall be reviewed during annual training.
 - a. Training should:
 - (1) Be a combination of classroom and scenario-based learning,
 - (2) Include community partners, when relevant and feasible,
 - (3) Incorporate cultural competency to understand disproportionately impacted communities, and how racialized experiences of policing and the criminal justice system may impact interactions with police.

Applies to: WSP Officers, Trooper Cadets

See Also: RCWs 10.93.190, 10.118.030, 10.120.010, 10.120.020, 10.120.030, 36.28A.445 (Render Aid); chapters 9A.76, 10.77, 71.05, and 74.34.020 RCW; WSP Policies **Animal Destruction, Responsibilities – Investigation, Rules of Conduct; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event; Use of Deadly Force – WSP Officers; Use of Deadly Force – WSP CVEOs and Trooper Cadets; ASP Baton/Flashlight; Projectile Impact Weapons; Side Handle Baton; Aerosol Subject Restraint (OC); Electronic Control Weapon; Chokehold/Neck Restraint; Spit Guard; Firearms, WSP Officers; Firearms, WSP CVEOs and Trooper Cadets; Use of Force Electronic FLUP; Internal Incident Report;**

Administrative Investigation Manual

2.00.020 **USE OF DEADLY FORCE – WSP OFFICERS** (CALEA 1.2.1, 4.1.2, 4.3.4, 11.3.4, 74.3.1)

I. DEFINITIONS

- A. *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.
- B. *Immediate 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 officer or another person.
- C. *Necessary* means that, under the totality of circumstances, a reasonably effective alternative to the use of physical force or deadly force does not 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.
- D. *Totality of the circumstances* means all facts known to the officer leading up to and at the time of the use of force, and includes the actions of the person against whom the officer uses such force, and the actions of the officer.
- E. *Less lethal alternatives* include, but are not limited to, verbal warnings, de-escalation tactics, conducted energy weapons, devices that deploy oleoresin capsicum, batons, and beanbag rounds.

II. POLICY

A. Use of Deadly Force – WSP Officers

- 1. 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 in the officer's immediate presence.
- 2. Officers shall not use deadly force against persons who present a danger only to themselves and do not pose an immediate threat of death or serious bodily injury to another person or officer.
- 3. Deadly force includes:
 - a. Impact weapon strikes to the head, neck, throat, or spine;
 - b. Striking a person's head onto a hard, fixed object;
 - c. Discharge of a firearm loaded with lethal ammunition at a person; or
 - d. Intentionally striking with a vehicle a person who is not inside a vehicle.
- 4. An officer, when possible, shall use less lethal alternatives that are available and appropriate under the circumstances before using deadly force.

3.5. An officer shall terminate the use of physical force as soon as the necessity for such force ends.

4.6. An officer shall provide or facilitate first aid at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.

5. Use of force policies, to include definitions, shall be reviewed during annual training.

Applies to: WSP Officers

See Also: RCWs 9A.16.010, 10.120.020, and 10.120.030; WSP Policy Policies Reporting Use of Force – WSP Officers; Use of Force; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OI) Qualifying Event; Use of Deadly Force – WSP CVEOs and Trooper Cadets

2.00.030 **USE OF DEADLY FORCE – WSP CVEOS AND TROOPER CADETS (CALEA 1.2.1, 4.1.2, 4.3.4, 11.3.4)**

I. DEFINITIONS

- A. *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.
- B. *Immediate 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 officer or another person.
- C. *Necessary* means that, under the totality of circumstances, a reasonably effective alternative to the use of physical force or deadly force does not 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.
- D. *Totality of the circumstances* means all facts known to the officer leading up to and at the time of the use of force, and includes the actions of the person against whom the officer uses such force, and the actions of the officer.
- E. *Less lethal alternatives* include, but are not limited to, verbal warnings, de-escalation tactics, conducted energy weapons, devices that deploy oleoresin capsicum, batons, and beanbag rounds.

II. POLICY

A. Use of Deadly Force – WSP Commercial Vehicle Enforcement Officers and Trooper Cadets

1. A WSP CVEO/trooper cadet 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 in the WSP CVEO's/trooper cadet's immediate presence.

2. Officers shall not use deadly force against persons who present a danger only to themselves and do not pose an immediate threat of death or serious bodily injury to another person or officer.
3. Deadly force includes:
 - a. Impact weapon strikes to the head, neck, throat, or spine;
 - b. Striking a person's head onto a hard, fixed object;
 - c. Discharge of a firearm loaded with lethal ammunition at a person; or
 - d. Intentionally striking with a vehicle a person who is not inside a vehicle.
4. A WSP CVEO/trooper cadet shall not intervene in situations outside of their immediate presence. In such instances, WSP CVEOs/trooper cadets shall call for a WSP officer or other law enforcement officer to respond.
5. A WSP CVEO/trooper cadet shall not pursue a fleeing individual.
6. A WSP CVEO/trooper cadet, when possible, shall use less lethal alternatives that are available and appropriate under the circumstances before using deadly force.
7. A WSP CVEO/trooper cadet shall terminate the use of physical force as soon as the necessity for such force ends.
8. A WSP CVEO/trooper cadet shall provide or facilitate first aid at the earliest safe opportunity to injured person(s) at a scene controlled by law enforcement.
7. ~~Use of force policies, to include definitions, shall be reviewed during annual training.~~

Applies to: WSP CVEOs and Trooper Cadets

See Also: RCWs 9A.16.010, 10.120.020, and 10.120.030; WSP Policies **Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Reporting Use of Force – WSP Officers; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event; Use of Force; Use of Deadly Force – WSP Officers; Use of Force FLUP; Internal Incident Report; Administrative Investigation Manual**

2.00.040 FIREARMS, WSP OFFICERS (CALEA 1.2.1, 4.1.2, 4.1.3, 4.3.4, 11.3.4)

I. DEFINITIONS

- A. *Feasible* means reasonably capable of being done or carried out to achieve the arrest or lawful objective without increasing risk of harm to the officer or another person.

II. POLICY

- A. The discharge of a firearm is considered deadly force and is subject to the **USE OF DEADLY FORCE – WSP OFFICERS** policy. Officers are only permitted to discharge a

firearm at a person in situations where deadly force is authorized. Each discharge of the firearm must be justified.

B. Officers shall use firearms in accordance with training and the manufacturer's specifications.

C. Pointing and Drawing a Firearm:

1. Officers should only point a firearm at a person when deadly force is authorized.

2. Officers should only draw a firearm in the close ready position (i.e., unholstered but out of the officer's visual field) when the officer makes reasonable observations based on the totality of the circumstances that the situation may evolve to the point where deadly force would be authorized.

3. When it is determined that the use of deadly force is not necessary, officers should, as soon as safe and feasible, lower, holster, or secure their firearm.

D. When feasible, officers shall give a verbal warning that a firearm will be discharged.

E. Prior to the decision to use a firearm, officers should consider field of fire, backdrop, bystanders, potential for ricochet, and other risks of life.

F. Restricted Uses:

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

2. Discharging a Firearm at or from a Moving Vehicle:

a. Officers 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.

b. When feasible, officers shall attempt to move out of the path of a moving vehicle rather than discharge their weapon at the operator.

c. Officers shall not shoot at any part of a vehicle in an attempt to disable the vehicle.

d. Officers shall not discharge a firearm from a moving vehicle, unless a person is immediately threatening the officer or another person with deadly force.

~~B. G. An officer shall not use a firearm in the following situations:~~ Prohibited Uses. Officers shall not use a firearm in the following circumstances:

1. When it appears likely an innocent person may be injured.

2. To fire a "warning shot."
3. ~~From a moving vehicle, except in defense of self or others when the suspect is using a deadly weapon.~~ Discharging or pointing a firearm at a person who presents a danger only to themselves and does not have the apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the officer or another person.
4. ~~At a moving vehicle, unless necessary to protect against an imminent threat of serious physical harm resulting from the driver's or a passenger's use of a deadly weapon. For the purposes of this policy, 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.~~ Discharging or pointing a firearm at a person who presents a danger only to property and does not have the apparent opportunity or intent to immediately cause death or serious bodily injury to the officer or another person.

Applies to: WSP Officers

See Also: RCWs 10.116.060, 10.120.020, and 10.120.030; 13.32A.050, 13.40.040; WSP Policies **Use of Force – Firearms, WSP CVEOs and Trooper Cadets; Use of Force; Use of Deadly Force, WSP Officers; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event**

2.00.050 FIREARMS, WSP CVEOS AND TROOPER CADETS (CALEA 1.2.1, 4.1.2, 4.1.3)

I. DEFINITIONS

- A. *Feasible* means reasonably capable of being done or carried out to achieve the arrest or lawful objective without increasing risk of harm to the officer or another person.

II. POLICY

- A. The discharge of a firearm is considered deadly force and is subject to the **USE OF DEADLY FORCE – WSP CVEOS AND TROOPER CADETS** policy. WSP CVEOs and trooper cadets are only permitted to discharge a firearm at a person in situations where deadly force is authorized. Each discharge of the firearm must be justified.
- B. WSP CVEOs and trooper cadets shall use firearms in accordance with training and the manufacturer's specifications.
- C. **Pointing and Drawing a Firearm:**
 1. WSP CVEOs and trooper cadets should only point a firearm at a person when deadly force is authorized.
 2. WSP CVEOs and trooper cadets should only draw a firearm in the close ready position (i.e., unholstered but out of the WSP CVEO's/trooper cadet's visual field)

when the CVEO/trooper cadet makes reasonable observations based on the totality of the circumstances that the situation may evolve to the point where deadly force would be authorized.

3. When it is determined that the use of deadly force is not necessary, WSP CVEOs and trooper cadets should, as soon as safe and feasible, lower, holster, or secure their firearm.

D. When feasible, WSP CVEOs and trooper cadets shall give a verbal warning that a firearm will be discharged.

E. Prior to the decision to use a firearm, WSP CVEOs and trooper cadets should consider field of fire, backdrop, bystanders, potential for ricochet, and other risks of life.

F. Restricted Uses:

1. WSP CVEOs and trooper cadets shall not use firearms as impact weapons except when deadly force is permitted.

2. Discharging a Firearm at or from a Moving Vehicle:

- a. WSP CVEOs and trooper cadets 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.

- b. When feasible, WSP CVEOs and trooper cadets shall attempt to move out of the path of a moving vehicle rather than discharge their weapon at the operator.

- c. WSP CVEOs and trooper cadets shall not shoot at any part of a vehicle in an attempt to disable the vehicle.

- d. WSP CVEOs and trooper cadets shall not discharge a firearm from a moving vehicle, unless a person is immediately threatening the WSP CVEO/trooper cadet or another person with deadly force.

~~B. G. A CVEO/trooper cadet shall not use a firearm in the following situations:~~ Prohibited Uses. WSP CVEOs/trooper cadets shall not use a firearm in the following circumstances:

1. When it appears likely an innocent person may be injured.
2. To fire a "warning shot."
3. ~~From a moving vehicle, except in defense of self or others when the suspect is using a deadly weapon.~~ Discharging or pointing a firearm at a person who presents a danger only to themselves and does not have the apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the WSP CVEO/trooper cadet or another person.

4. At a moving vehicle, unless necessary to protect against an imminent threat of serious physical harm resulting from the driver's or a passenger's use of a deadly weapon. For the purposes of this policy, 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. Discharging or pointing a firearm at a person who presents a danger only to property and does not have the apparent opportunity or intent to immediately cause death or serious bodily injury to the WSP CVEO/trooper cadet or another person.

5. At a fleeing felon.

Applies to: WSP CVEOs and Trooper Cadets

See Also: RCWs 10.116.060, 10.120.020, and 10.120.030; WSP Policies **Use of Force – Firearms, WSP Officers; Use of Force – WSP CVEOs and Trooper Cadets; Use of Deadly Force – WSP CVEOs and Trooper Cadets; Use of Force – Firearms, WSP CVEOs and Trooper Cadets Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OI)** **Qualifying Event**

2.00.060 CHOKEHOLD/NECK HOLDS RESTRAINT (CALEA 1.2.1, 4.1.6, 4.1.7, 4.3.3)

I. DEFINITIONS

A. *Chokehold* means the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway.

B. *Neck restraint* means any vascular compression or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

II. POLICY

- A. No WSP officers, CVEOs, or trooper cadets may not use any type of neck hold, a chokehold, or neck restraint that intentionally restricts blood flow or breathing on another person in the course of their duties.

B. Investigation of Use of Force

1. The procedures for conducting a use of force investigation are outlined in the **RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION** and the **RESPONSIBILITIES – LETHAL USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF INDEPENDENT INVESTIGATIONS (OI) QUALIFYING EVENT** policies as well as the *Administrative Investigation Manual*.

Applies to: All WSP Officers, CVEOs, and Trooper Cadets

See Also: RCWs 10.116.020, 10.120.020, and 10.120.030; WSP Policies **Use of Force; Use of Deadly Force – WSP Officers; Use of Deadly Force – WSP CVEOs**

and Trooper Cadets; Reporting Use of Force – WSP Officers;
Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force
Investigation; Responsibilities – Lethal Use of Force – Independent
Investigation Team (IIT)/Office of Independent Investigations (OII)
Qualifying Event; Use of Force FLUP; Internal Incident Report; *Administrative
Investigation Manual*

3.01.010 SIDE HANDLE BATON/RIOT CONTROL BATON (CALEA 4.1.4, 4.3.4)

I. DEFINITIONS

- A. *Feasible* means reasonably capable of being done or carried out to achieve the arrest or lawful objective without increasing risk of harm to the officer or another person.

II. POLICY

A. Use of Side Handle Baton

1. Officers and trooper cadets shall use the side handle baton in accordance with training and the equipment manufacturer's instructions.
2. The use of the side handle baton is authorized only during civil disorder situations.
3. Officers and trooper cadets shall not intentionally strike vital areas, including the head, neck, face, throat, spine, groin, or kidney unless deadly force is authorized.
4. Officers and trooper cadets shall not use an impact weapon to intimidate a person when an impact weapon warning is not justified by the threat presented.
5. Officers and trooper cadets shall reassess the effectiveness of impact weapon strikes as soon as safe and feasible, and if not effective, move to another appropriate target or to another tactical or physical force option.

B. Side Handle Baton and Riot Control Training

1. All Field Operations Bureau troopers and sergeants assigned to traffic duties shall receive annual training in riot control techniques and the use of the side handle baton.
2. Troopers and sergeants in assignments other than traffic or assigned to another bureau may receive side handle baton and riot control training upon approval of their supervisor, subject to the availability of training from the Training Division.

C. Storage and Wearing of Side Handle Baton and Baton Ring

1. The side handle baton and baton ring shall be stored in the trunk of the patrol vehicle. The baton ring shall be stored inside the riot helmet case.
2. The side handle baton and baton ring shall be worn on the weapon side or reaction side immediately behind the portable radio or holster.

3. The side handle baton, baton ring, and riot helmet shall be available for annual inspections.

D. Additional Riot Control Information

1. Officers shall review the WSP *Rapid Deployment Force Manual* annually for additional information regarding riot control.

E. Investigation of Use of Force

1. Use of the baton or flashlight, if deployed as an impact weapon/tool, is considered use of force and will be investigated. The supervisor shall be notified as soon as possible. If there are no indications or allegations of policy violations and the supervisor believes the use of the ASP baton was appropriate, the supervisor shall complete the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit) as outlined in the *Administrative Investigation Manual*.
2. If it appears that a policy violation may have occurred, the Use of Force FLUP and an Internal Incident Report (IIR) shall be submitted through the chain of command. The procedures for conducting a use of force investigation are outlined in the **RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION** and the **RESPONSIBILITIES – LETHAL USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF INDEPENDENT INVESTIGATIONS (OII) QUALIFYING EVENT** policies as well as the *Administrative Investigation Manual*.

Applies to: WSP Officers and Trooper Cadets

See Also: RCWs 10.120.020, and 10.120.030; WSP Policies **Use of Force; Use of Deadly Force – WSP Officers; Use of Deadly Force – WSP CVEOs and Trooper Cadets; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event; Administrative Investigation Manual; Internal Incident Report; Use of Force FLUP; Rapid Deployment Force Manual**

3.01.020 AEROSOL SUBJECT RESTRAINT (OC) (CALEA 4.1.4, 4.1.5, 4.3.4)

I. POLICY

A. Issuance of OC

1. Officers, WSP CVEOs, and designated trooper cadets are issued Oleoresin Capsicum (OC). OC is an inflammatory agent that causes an intense burning sensation of the eyes, nose, mouth, and skin, which may result in closing, tearing and swelling of the eyes, as well as choking, gagging, and gasping for breath. It shall be worn on the gun belt or placed in the patrol vehicle.

B. Use of OC Procedures

1. Officers, WSP CVEOs, and trooper cadets shall use OC in accordance with training and the equipment manufacturer's instructions.
2. After the initial application of OC spray, each subsequent application must also be justified.
3. OC spray is not appropriate in an enclosed, highly populated space where there is a likelihood of impacting uninvolved persons, except where OC spray is the only available and appropriate force option. Employees deploying OC will attempt to avoid or minimize incidental exposure to non-involved persons.
4. When OC is used, the subject should be informed not to rub the eyes, as this can heighten the effect. While incapacitated, handcuff and search the subject. If possible, flush the subject's eyes with clean, cool water and ventilate with fresh air. Symptoms should disappear within 30 to 90 minutes. If symptoms persist, seek medical attention.
- 2-5. Whenever OC is used, the supervisor shall immediately be notified as soon as possible but in no event any later than the end of the officer's/cadet's shift safe and feasible. If there are no indications or allegations of policy violations and the supervisor believes the use of OC was appropriate, the supervisor shall follow the use of force reporting procedures complete the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit) as outlined in the *Administrative Investigation Manual*.
- 3-6. If it appears that a policy violation may have occurred, the Use of Force Review FLUP and an Internal Incident Report (IIR) shall be submitted through the chain of command. If a policy violation is suspected or alleged, in addition to completing the IIR, the supervisor shall ensure that the division/district commander is notified of the incident and briefed on the facts leading the supervisor to believe a violation has occurred. The division/district commander shall consult with the Office of Professional Standards (OPS) Commander before the IIR is signed and issued. The procedures for conducting a Use of Force investigation are outlined in the **USE OF FORCE – RESPONSIBILITIES – INVESTIGATION** policy and **RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION** and the **RESPONSIBILITIES – LETHAL USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF INDEPENDENT INVESTIGATIONS (OII) QUALIFYING EVENT** as well as the *Administrative Investigation Manual*.

C. Requirement to Return Container to Supervisor

1. When the total weight of the OC container is 2.5 ounces or less, the container shall be returned to the supervisor.
2. The supervisor is responsible for empty OC container disposal. The empty container shall be disposed of in the district. Any partially used OC container should be sent to the Training Academy.

Applies to: WSP Officers, WSP CVEOs, and Designated Trooper Cadets
See Also: RCWs 10.120.020, and 10.120.030; WSP Policy ~~Use of Force – Responsibilities – Investigation~~ Policies **Use of Force; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OI) Qualifying Event**; *Administrative Investigation Manual*; Use of Force Review **FLUP; Control Tactics and Weapons Manual**

3.01.030 ASP BATON/FLASHLIGHT (CALEA 4.1.4, 4.3.2, 4.3.4)

I. DEFINITIONS

A. Feasible means reasonably capable of being done or carried out to achieve the arrest or lawful objective without increasing risk of harm to the officer or another person.

II. POLICY

A. ASP Baton Training Requirement

1. All Field Operations Bureau (FOB) officers assigned to traffic law enforcement and to commercial vehicle enforcement duties, WSP CVEOs, and trooper cadets shall be trained in the use of the ASP baton and flashlight as impact weapons. Training is optional for FOB lieutenants and above.
2. Upon completion of training, officers/WSP CVEOs/trooper cadets may carry the ASP baton during the course of traffic and commercial vehicle enforcement activities. The flashlight may be carried in the vehicle or on the person.
3. Officers not in FOB may receive ASP baton and flashlight training upon approval of their supervisor, subject to the availability of training from the Training Division or district ASP/flashlight **Control Tactics and Weapons** instructors.
4. Employees who have been trained with the ASP baton and flashlight currently assigned to traffic, commercial vehicle enforcement duties, or other duties shall participate in ASP/flashlight refresher training, which is held in conjunction with **annual** firearms training/qualification.

B. Carrying the ASP Baton

1. The ASP baton may be carried on either side of the gun belt. It shall be carried in such a way as to not hamper the drawing of the firearm or other tools. The flashlight, if carried on the gun belt, shall be carried on the reaction side in an issued flashlight holder.

C. Use as an Impact Weapon

1. Officers/WSP CVEOs/trooper cadets shall not intentionally strike vital areas, including the head, neck, face, throat, spine, groin, or kidney unless deadly force is authorized.

2. Officers/WSP CVEOs/trooper cadets shall not use an impact weapon to intimidate a person when an impact weapon warning is not justified by the threat presented.
3. Officers/WSP CVEOs/trooper cadets shall reassess the effectiveness of impact weapon strikes as soon as safe and feasible, and if not effective, move to another appropriate target or to another tactical or physical force option.

D. Investigation of Use of Force

1. Use of the ASP baton or flashlight, if deployed as an impact weapon/~~tool~~, is considered use of force and will be investigated. ~~The~~ When it becomes safe and feasible, the supervisor shall be notified as soon as possible immediately. If there are no indications or allegations of policy violations and the supervisor believes the use of the ASP baton or flashlight was appropriate, the supervisor shall complete the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit) as outlined in the *Administrative Investigation Manual*.
2. If it appears that a policy violation may have occurred, the Use of Force FLUP and an Internal Incident Report (IIR) shall be submitted through the chain of command. ~~If a policy violation is suspected or alleged, in addition to completing the IIR, the supervisor shall ensure that the division/district commander is notified of the incident and briefed on the facts leading the supervisor to believe a violation has occurred. The procedures for conducting a use of force investigation are outlined in the~~ **USE OF FORCE – RESPONSIBILITIES – INVESTIGATION** policy and **RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION** and the **RESPONSIBILITIES – LETHAL USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF INDEPENDENT INVESTIGATIONS (OII) QUALIFYING EVENT** policies as well as the *Administrative Investigation Manual*.

Applies to: All Officers, Trooper Cadets, Training Division, and the Office of Professional Standards

See Also: RCWs 10.120.020, and 10.120.030; WSP Policies **Use of Force; Use of Deadly Force – WSP Officers; Use of Deadly Force – WSP CVEOs and Trooper Cadets; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event;** *Administrative Investigation Manual*; Internal Incident Report; Use of Force FLUP; *Control Tactics and Weapons Manual*

An updated policy on the use of Electronic Control Weapons (ECW) can be found at the end of this document on page 36.

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3.01.050 PROJECTILE IMPACT WEAPONS (CALEA 4.1.4, 4.3.4)

I. DEFINITIONS

- A. *Feasible* means reasonably capable of being done or carried out to achieve the arrest or lawful objective without increasing risk of harm to the officer or another person.
- B. *Projectile Impact Weapon (PIW)* means a less lethal weapon that fires projectiles such as 40mm sponge or foam rounds, PepperBall® or similar projectile, blast balls or beanbags designed to temporarily incapacitate a person.

II. POLICY

A. Use of Projectile Impact Weapons

1. A PIW fires less-lethal ammunition and is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person's body.
2. Officers and trooper cadets shall use PIWs in accordance with training and the equipment manufacturer's instructions.
3. Employees must be trained to use a PIW before deploying one during the course of law enforcement operations.
4. When safe and feasible, an officer/trooper cadet about to discharge a PIW should advise other officers at the scene prior to the discharge.
5. An officer/trooper cadet should target the buttocks, thigh, calf, and large muscle groups.
6. Officers and trooper cadets deploying a PIW shall assess the effectiveness of the PIW after each shot. If subsequent PIW rounds are needed, officers/trooper cadets should consider aiming at a different targeted area.

B. Restricted Uses. The PIW should not be used in the following circumstances unless the use of deadly force is justified:

1. Intentionally aiming a PIW at the head, neck, chest, or groin unless deadly force is authorized.
2. At ranges that are inconsistent with the PIW manufacturer's guidelines.
3. At a person who is situated on an elevated surface (e.g., a ledge, scaffold, near a precipice, etc.) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).

C. Investigation of Use of Force

1. Use of a PIW is considered use of force and will be investigated. When safe and feasible, the supervisor shall immediately be notified. If there are no indications or allegations of policy violations and the supervisor believes the use of the PIW was appropriate, the supervisor shall complete the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit) as outlined in the *Administrative Investigation Manual*.
2. If it appears that a policy violation may have occurred, the Use of Force FLUP and an Internal Incident Report (IIR) shall be submitted through the chain of command. The procedures for conducting a use of force investigation are outlined in the **RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION** and the **RESPONSIBILITIES – LETHAL USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF INDEPENDENT INVESTIGATIONS (OII) QUALIFYING EVENT** policies as well as the *Administrative Investigation Manual*.

Applies to: WSP Officers and Trooper Cadets
See Also: RCW 10.120.020, 10.120.030; WSP Policies **Use of Force; Use of Deadly Force – WSP Officers; Use of Deadly Force – WSP CVEOs and Trooper Cadets; Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event; Administrative Investigation Manual; Internal Incident Report; Use of Force FLUP; Control Tactics and Weapons Manual; Rapid Deployment Force Manual**

22.01.010 REPORTING USE OF FORCE – WSP OFFICERS (CALEA 4.2.1)

I. POLICY

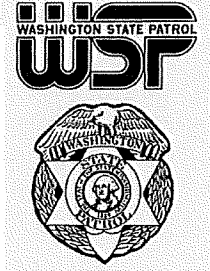
A. Supervisor Notification of Use of Force Incidents

1. In any instance where officers use a reportable use of force (as defined in the **USE OF FORCE—DEFINED** policy) to defend themselves or to overcome a person's combative resistance or aggression, they shall, as soon as safe and feasible, immediately notify a supervisor. The supervisor shall immediately submit a Use of Force Report in Remedy to their division/district commander FLUP (Fleet, Loss of Equipment, Use of Force, Pursuit) as outlined in the *Administrative Investigation Manual*.
2. If an arrest is made, the officer shall complete an arrest report and any other reports necessary to satisfy prosecutorial requirements.

Applies to: WSP Officers
See Also: WSP Policy **Policies Use of Force—Defined; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event; Use of Force Report (FLUP); Administrative Investigation Manual**

INTEROFFICE COMMUNICATION
WASHINGTON STATE PATROL

TO: All WSP Employees
FROM: Chief John R. Batiste
SUBJECT: Use of Force Policies
DATE: December 28, 2022



Washington State Patrol (WSP) recently adjusted several of its policies related to the Use of Force. The agency made those adjustments pursuant to RCW 10.120.030(2) and the Office of the Attorney General's Model Use of Force Policy.

One policy related to Electronic Control Weapons requires an immediate revision. Specifically, WSP Regulation 3.01.040 Electronic Control Weapons – Use of is revised per this directive effective December 29, 2022. This policy will be reviewed during the WSP's next Concurrence process and may be modified by subsequent General Order(s).

- 3.01.040 ELECTRONIC CONTROL WEAPONS – USE OF (CALEA 4.1.5, 4.2.1, 4.3.2, 4.3.4)

Commanders are responsible for distributing this Chief's Directive to all employees under their command. Employees are responsible for reading and understanding new and/or revised policies.

Employees shall acknowledge receipt of this Chief's Directive by utilizing the acknowledgment system in Remedy.

JRB:kh
Attachment



3.01.040 ELECTRONIC CONTROL WEAPONS – USE OF (CALEA 4.1.5, 4.2.1, 4.3.2, 4.3.4)

I. POLICY

A. Training Requirements

1. An electronic control weapon (ECW) is a portable device that fires darts/electrodes that transmit an electrical charge or current intended to temporarily immobilize a person (e.g. TASER). Officers and trooper cadets who are assigned to carry an ECW must complete departmental ECW training as outlined by the Training Division prior to carrying or using the ECW. If the ECW is issued, it shall be worn according to this policy.
2. All use of the ECW shall be according to departmental training and the equipment manufacturer's instructions. Deployment of the ECW without firing and/or use of the laser sight only is not a reportable use of force.
3. Employees who have been trained with the ECW currently assigned to traffic duties, commercial vehicle enforcement duties, or other duties shall participate in annual ECW recertification/refresher training held in conjunction with belt weapons training/qualification.

B. Standards of Use

1. Employees shall carry an ECW on the reaction side of the body, ~~and in all but extreme circumstances, shall draw, exhibit and use the device with the reaction (non-pistol firing) hand.~~
2. Employees should not hold an ECW and firearm simultaneously unless exigent circumstances exist.
3. Employees should target areas that do not include the head, neck, chest, or genitals.
4. Employees should not intentionally deploy multiple ECWs at the same person, unless the first deployed weapon clearly fails.
5. Employees should be aware that the primary use of an ECW is not as a pain compliance tool. Drive-stun mode should only be used when necessary to complete the incapacitation circuit where only one probe has attached to the person, where both probes attached in close proximity, or when no other less lethal options are available and appropriate.
6. Employees should be aware that multiple applications of the ECW increase the risk of serious bodily injury or death.
7. An ECW shall be used for one standard discharge cycle of five seconds or less, after which the employee shall reassess the situation. An employee shall use only the minimum number of cycles necessary to control the person.

8. Employees will assume that if they have used an ECW three times against a person and the person continues to aggress, the ECW may not be effective against that person and the employee shall consider other options.
9. Employees must be able to clearly articulate and document the justification for each individual application of the ECW.

C. Restricted Uses

1. An ECW should not be used in the following circumstances:
 - a. On a person who is fleeing the scene, absent other factors.
 - b. On a person who is handcuffed or otherwise restrained unless deadly force is authorized.
 - c. On a person who is situated on an elevated surface (e.g., a ledge, scaffold, near a precipice, etc.) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).
 - d. On an operator in physical control of a vehicle in motion, including automobiles, trucks, motorcycles, ATVs, bicycles, and scooters unless deadly force is authorized.
 - e. In any environment where an officer knows or has reason to believe that a potentially flammable, volatile, or explosive material is present that might be ignited by an open spark, including but not limited to OC spray with a volatile propellant, gasoline, natural gas, or propane.

D. Electronic Control Weapon Deployment – First Aid

1. In the event the ECW is deployed and the probes impact the head, groin, or breast (female), they shall only be removed by medical personnel. In all other cases, the officer may remove the probes at the earliest safe opportunity and according to departmental training. Medical treatment—if requested by the subject—will not be refused. Probes should be treated as a biohazard.

E. Supervisor Notification

1. Whenever the ECW is used, the supervisor shall immediately be notified as soon as safe and feasible.
2. If there are no indications or allegations of policy violations and the supervisor believes the use of the ECW was appropriate, the supervisor shall complete the Use of Force FLUP (Fleet, Loss of Equipment, Use of Force, and Pursuit) as outlined in the *Administrative Investigation Manual*.
3. If it appears that a policy violation may have occurred, the Use of Force FLUP and an Internal Incident Report (IIR) shall be submitted through the chain of command.

4. The procedures for conducting a use of force investigation are outlined in the **RESPONSIBILITIES – NON-LETHAL/NON-SUBSTANTIAL BODILY INJURY USE OF FORCE INVESTIGATION** and the **RESPONSIBILITIES – LETHAL USE OF FORCE – INDEPENDENT INVESTIGATION TEAM (IIT)/OFFICE OF INDEPENDENT INVESTIGATIONS (OII) QUALIFYING EVENT** policies as well as the *Administrative Investigation Manual*.

F. Maintenance

1. ECW malfunctions are to be reported to the officer's supervisor prior to the end of shift.
2. Maintenance and repairs of ECWs are to be referred to a Firearms Specialist.
3. All ECWs shall be spark checked, at a minimum, upon the return of duty from any break in service and while in uniform.
4. Employees shall record all spark checks on the daily Time and Activity Report (TAR).
5. Supervisors shall ensure an ECW data download is completed as part of the annual equipment inspection. The download shall be reviewed by supervisors for compliance with agency policies and training requirements.
6. All ECWs are to be inspected annually by a Firearms Specialist.

Applies to: Employees Trained to Use ECWs

See Also: RCW 10.120.020, 10.120.030, WSP Policy **Reporting Use of Force – WSP Officers; Responsibilities – Non-Lethal/Non-Substantial Bodily Injury Use of Force Investigation; Responsibilities – Lethal Use of Force – Independent Investigation Team (IIT)/Office of Independent Investigations (OII) Qualifying Event; Use of Force**; Use of Force FLUP; Internal Incident Report; *Administrative Investigation Manual*