

COSMOPOLIS POLICE DEPARTMENT POLICY		USE OF FORCE <i>General Policy</i>
EFFECTIVE DATE 06/02/2022	APPROVED <i>Casey Stratton</i>	POLICY # 09.010

INTENT: This policy recognizes that the use-of-force by law enforcement officers requires constant evaluation. Even at its lowest level, the use-of-force by the police is a serious responsibility and can have a significant life impact on the person involved, as well as on the officer and the department. The intent of this policy is to provide officers of this department with guidelines on reasonable and lawful use-of-force under state and federal law.

This policy consists of principles and values intended to guide our department members when performing official duties whenever it becomes necessary to apply reasonable force to another person in order to effect a lawful purpose. This is a special governmental duty uniquely entrusted to a law enforcement officer by our society and must always be held in the most serious of regard by our officers. No policy can provide a statement of what must be done in every particular situation encountered by a law enforcement officer; this policy is intended to outline the guiding principles and the law to be followed by a law enforcement officer when fulfilling the duty of enforcing the law, protecting self or others, serving our community and keeping the peace.

PEACE OFFICER: Under state law, the term "peace officer" includes any "general authority", "limited authority" and "specially commissioned" officer as defined in RCW 10.93.020; the term "peace officer" does not include any corrections officer or other employee of a jail, correctional or detention facility.

RCW Chapter 10.120  
/ RCW 10.93.020

USE-OF-FORCE DEFINITION: *In accordance with state law and by department policy, there are hereby three definitions for use-of-force by officers of this department:*

- "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.
- "Command by weapon" means an officer pointing or displaying a weapon at a person in a manner which commands compliance. This can include pointing a firearm, pointing a less-lethal weapon (such as TASER), extending or bringing to ready a baton or the intentional deployment of any another weapon by an officer intended to command compliance; if the weapon is actually discharged or used, then it will be considered either "physical force" or "deadly force"- depending on the circumstances.
- "Deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.

RCW 10.120.010

RCW 9A.16.010

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**PRINCIPALS IN USING FORCE:** The use-of-force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Officers are involved in numerous and varied interactions on a daily basis, and where warranted, may use lawful force in carrying out the official duties assigned to them.

All officers must have an understanding of and a true appreciation for the limitations on their authority, particularly with respect to overcoming resistance, and protecting self or others, from those with whom they come into official contact.

The Cosmopolis Police Department recognizes and respects the life and dignity of all persons. "It is the fundamental duty of law enforcement to preserve and protect all human life."

It is also understood that vesting officers with the authority to use reasonable force and protect the public welfare requires a careful balancing of all human interests.

Per RCW 9A.16.020, force may be "...necessarily used by a public officer in the performance of a legal duty..."

**GRAHAM STANDARDS:** Under federal case law outlined by the US Supreme Court, the force used must be "objectively reasonable" under the Graham v. Connor standard [(1989) 490 U.S. 386, 109 S. Ct. 1865].

The Graham court stated: "Determining whether the force used ... is 'reasonable'... requires a careful balancing of the nature and quality of the intrusion ... against the countervailing governmental interests at stake."

The test of reasonableness requires "...careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he [or she] is actively resisting arrest or attempting to evade arrest by flight."

The reasonableness of a particular use-of-force "must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight."

**NECESSARY:** Per state law, "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

RCW 10.120

RCW 9A.16.020

Graham v. Connor

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purpose intended or to protect against the threat posed to the officer or others.

This statute reinforces the requirement that officers will employ only the amount of force that is reasonable and lawfully necessary to defend self or others, effect an arrest/ detention, or assume control of a situation or person in accordance to the officer's official duties and responsibilities.

**TOTALITY OF THE CIRCUMSTANCES:** "Totality of the circumstances" means all facts known to the peace officer (or 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 (or officer) uses such force, and the actions of the peace officer (or officer).

RCW 10.120.010

**IMMINENT:** As defined in RCW 71.05.020, "imminent means the state or condition of being likely to occur at any moment or near at hand, rather than distant or remote."

RCW 71.05.020

**IMMEDIATE THREAT OF SERIOUS INJURY OR DEATH:** "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 peace officer, (officer), or another person.

RCW 10.120.020

**DUTY OF REASONABLE CARE:** Under state law, a peace officer shall use reasonable care when determining whether to use "physical force", "command by weapon" or "deadly force" and when using any such force against another person. To that end, a peace officer shall:

RCW 10.120.020

- When possible, use all "de-escalation tactics" that are available and appropriate under the circumstances before using physical force;
- 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 74.34.020;

RCW 74.34.020

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- 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.
- Terminate the use of physical force as soon as the necessity for such force ends;
  - When possible, use less-lethal alternatives that are available and appropriate under the circumstances before using deadly force.

**OTHER FACTORS TO CONSIDER:** For the purpose of this department policy, other factors to determine whether to use force against a person and if the force is necessary, as well as determining the appropriate and necessary force possible to effect a lawful purpose includes, but is not limited to:

- The conduct of the person as reasonably perceived by the officer at the scene;
- Whether or not the subject appears to be resisting, attempting to evade arrest by flight or is attacking the officer or another person;
- Number of subjects present versus number of officers;
- Reasonably reliable information as provided by E911 Dispatch or witnesses as to behavior or actions of the person before the police arrived;
- Relative physical strength and ability between the subject and the officer;
- Training and experience of the officer;
- Known or demonstrated skill by the person in fighting or martial arts;
- Time of day, lighting conditions and/ or impact of inclement weather;
- Heavy clothing, ballistic vest or other attire worn by the person which could prevent effective application of less-lethal force options (such as TASER);
- Proximity of weapons or other improvised weapons capable of producing harm;
- Know prior history of the person to include violence or resistance;
- The risk of escape and reasonably foreseeable consequences of escape;
- The availability of other reasonable and effective force options given the unfolding circumstances and time available at the scene; and
- Other exigent or unforeseen circumstances.

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DE-ESCALATION TACTICS: "De-escalation tactics" refer to actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident.

RCW 10.120.010

Depending on the circumstances, "de-escalation tactics" may include, but are not limited to:

- Using clear instructions and verbal persuasion;
- Attempting to slow down or stabilize the situation so that more time, options, and resources are available to resolve the incident;
- Creating physical distance by employing tactical repositioning to maintain the benefit of time, distance, and cover;
- When there are multiple officers, designating one officer to communicate in order to avoid competing commands;
- Requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder or other behavioral health professional, or back-up officers.

LESS-LETHAL ALTERNATIVES: "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.

RCW 10.120.010

ENSURING MEDICAL AID: It is the intent of the department that officers minimize the severity to persons posed by obvious injuries or non-visible trauma associated with a use-of-force against a person.

After any use-of-force (once the situation is under control) officers are required to assess the physical condition and potential medical status of the suspect or any other person involved. This assessment should include a visual check of the person for any obvious signs of injury, as well as ongoing observation to detect changes in condition or health.

Subjects should be monitored by the officer at the scene on a consistent basis; no person should be left alone in the patrol vehicle for long periods of time- even if the person initially refuses medical aid or treatment after an application of force.

After the assessment of actual or potential injury, or if the person shows signs of physical distress, or lost consciousness at any point, officers at the scene shall administer the appropriate emergency first aid in accordance with their training.

If a person appears to be obviously injured or has suffered a likely injury, is exhibiting signs of physical distress or lost consciousness at any point, officers at the scene will continue to provide first aid as they directly monitor the person and request an aid car respond to the scene from the fire department. The fire department will administer whatever level of medical aid is necessary as a result of the injury or medical circumstances at hand; officers will assist EMS in

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providing safety and security oversight of the person without interfering with or compromising the needed medical treatment being provided.

If a person claims to be injured and/ or demands emergency medical treatment (even if there is no obvious sign of injury) after a use-of-force incident, the arresting or officer responsible for the scene will summon an aid car from the fire department to respond to medically assess the person.

Officers must be aware that the fire department can provide emergency medical care in the field, but emergency medical technicians and paramedics cannot provide "medical clearance" for a suspect for incarceration. If "medical clearance" is required for booking, the suspect will be transported to the nearest available emergency room prior to booking.

The transport of sick, injured or disabled prisoners will be in accordance with policy 12-070: "Transport of Sick, Injured or Disabled Prisoners".

**EXCITED DELIRIUM CONCERNS:** If a person exhibits signs of extreme agitation; violent or irrational behavior accompanied by profuse sweating; extraordinary strength or stamina; an unusual tolerance or disregard for pain or discomfort; and/ or has experienced prolonged or pronounced physically strenuous exertion, effort or stress, this person may be at a higher risk of sudden death (known as "excited delirium").

In these situations, officers should be constantly aware of the physical condition of the subject and summon emergency medical aid as soon as practical. A person suffering this condition can be extremely difficult to control or subdue one moment, only to be followed by a sudden loss of consciousness and possible death in the next.

If reasonably suspected, this condition should be treated without delay as an emergency medical condition as outlined in this policy.

**OFF-DUTY USE OF FORCE OR WEAPONS:** When acting in the capacity of a law enforcement officer while off-duty, the provisions of applicable department policy and state law will still apply when carrying out any official law enforcement function.

Any possession or use of department owned or authorized lethal and non-lethal weapons for law enforcement purposes while off-duty shall be in accordance with the same departmental guidelines for the use of such weapons while on-duty.

**USE-OF-FORCE REPORT REQUIRED:** In all cases of a use-of-force by a member of this department (even if assisting another agency outside of the city limits or when off-duty but acting in the capacity as a law enforcement officer),

Transport of Sick,  
Injured or Disabled  
Prisoners: Police 12-  
070

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all Cosmopolis department members present are required to complete a law incident report detailing the circumstances of the incident, to include the situation or crime at hand, actions of the persons and officers involved, identified threats, attempts to de-escalate, the resulting medical condition or injuries to any party, including officers, relevant photos or videos, as well as a detailed explanation as to the tactics, techniques and/or use-of-force actions taken by the officers present.

If the suspect is booked at the jail, the booking form will reflect that there was a use-of-force used and detail any subsequent medical treatment that was provided or refused.

Officers or other Cosmopolis department members who were only present at the scene, but did not engage in a use-of-force, are still required to submit a supplemental report as to what he or she observed. The department may also request reports or statements from officers of other departments, witnesses or others present at the time of the use-of-force incident.

If the incident involves deadly force, reporting will be in accordance with policy 09-120: "Reporting Death or Serious Bodily Injury".

Reporting Death or  
Serious Bodily Injury:  
Policy 09-120

All use-of-force reports will be flagged in the department's records management system (RMS) with the Cosmopolis use of force code "COSUF" before being submitted to the Deputy Chief for review (prior to going off-duty, unless additional time to complete the report is required and a time extension is specifically approved by the shift supervisor). Use-of-force reports are expected to be completed as soon as practical in order to start the use-of-force review process.

The deputy chief and chief of police will review the report via the chain-of-command and maintain a copy of the report in the department "Use-of-Force" Log/ file.

Statistical Reports:  
Policy 15-070

The Use-of-Force Log/ File is used to facilitate the annual management review and analysis of all use-of-force by this department per policy 15-070: "Statistical Reports".

**REPORTING USE-OF-FORCE TO THE STATE:** In accordance with RCW 10.118.030 and department policy 09-015: "Use-of-Force Reporting Requirements to State", the department will report use-of-force incidents to the state data collection point as required under the program as administered by the State Attorney General.

RCW 10.118.030/Use  
of Force Reporting  
Requirements to  
State: 09-015

**PROHIBITED USE-OF-FORCE:** Under state law, a peace officer may not use any force tactics prohibited by applicable departmental policy, RCW Chapter 10.120, or otherwise by law, except to protect his or her life or the life of another

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person from an imminent threat.

No officer may use force in a manner or under such circumstances that would violate the United States Constitution or state Constitution.

COMMUNITY CARETAKING: Nothing in RCW Chapter 10.120 limits or restricts a peace officer's authority or responsibility to perform lifesaving measures or perform community caretaking functions to ensure health and safety including, but not limited to, rendering medical assistance, performing welfare checks, or assisting other first responders and medical professionals; or prevents a peace officer from responding to requests for assistance or service from first responders, medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any member of the public.

RCW 10.120