

## **CHAPTER 1: AUTHORITY**

### **1.1 OATH OF OFFICE**

- A. All personnel, prior to assuming sworn status, shall take and abide by an Oath of Office to enforce the law, uphold the Constitution of the United States and the State of Washington, and other laws as applicable.
- B. This oath of office shall be administered by the Mayor or Finance Director prior to assuming sworn status.

### **1.2 CANONS OF POLICE ETHICS**

- A. The Anacortes Police Department has adopted a Law Enforcement Code of Ethics, Canons of Police Ethics, and Oath of Honor. All Department personnel are expected to abide by these ethics.
- B. New employees shall receive a copy of the Canons of Police Ethics during their Oath of Office. Personnel are expected to regularly re-familiarize themselves with these Ethics.
- C. The Code of Ethics, Canons of Police Ethics, and Oath of Honor are located in [Appendix A](#) of this manual.

### **1.3 DIVERSION PROGRAMS – DEPARTMENT ROLE**

- A. It is the policy of the Department to provide whatever assistance it can to criminal justice or social service diversion programs when such requests are made.
- B. Members of the Anacortes Police Department are encouraged to participate as a board member or advisor when requested by any criminal justice or social service diversion program.
- C. When a request is made and the officer would like to participate, a letter shall be forwarded to the Division Captain outlining the program's role and the role the officer would play.

### **1.4 ENFORCEMENT AUTHORITY**

- A. The Federal Constitution, the Washington State Constitution and the Revised Codes of Washington define the scope and limits as it pertains to the enforcement of laws and ordinances.
- B. The Washington State Constitution, Article II, Section II, grants municipalities the authority to exercise all powers of local self- government

and to adopt and enforce within their limits such local police, sanitary and other similar regulations as are not in conflict with general laws.

- C. The Revised Code of Washington, Chapter 10.93.070, lists the circumstances when a general authority Washington Peace Officer may enforce the traffic or criminal laws of this State. This includes prior written consent of the Sheriff or Chief of Police in whose jurisdiction the exercise of powers occurs.
- D. The Anacortes Police Department, in addition to having general authority Peace Officers, shall also have a limited authority commissioned officers to deal with issues limited to parking, nuisance and animal enforcement as well as crime prevention.

## **1.5 AUTHORITY TO CARRY AND USE WEAPONS**

- A. RCW 9.41.050 provides authority for carrying a firearm. RCW 9.41.060 and RCW 9.41.270 provide for exceptions to restrictions on carrying firearms, which includes Law Enforcement Officers of this State. RCW 9.41.280 and RCW 9.41.300 provide for exceptions for Law Enforcement Officers to the areas where the carrying of a firearm is prohibited by law.
- B. No Officer shall be allowed to carry a firearm or any other Department weapon prior to completing the Department approved qualifications, as required in section 1.18 and 1.19 of this chapter, and being trained in the limitations of the use of deadly force.

## **1.6 CONSTITUTIONAL REQUIREMENTS**

- A. In order to protect the constitutional rights of persons involved in criminal investigations and to allow Officers to interview and/or interrogate suspects consistent with current case law, the following guidelines shall be adhered to:
  - 1) Officers shall not coerce or obtain involuntary confessions from persons suspected of criminal involvement.
  - 2) Prior to interviewing or interrogating a suspect whenever he/she is in custody, or is otherwise deprived of his/her freedom, an Officer must first advise the suspect of his or her constitutional rights as required by the U.S. Supreme Court decision of *Miranda versus Arizona* (1966). The definition of a custodial interrogation can be a confusing concept. Whenever there is doubt about a custodial interrogation, the suspect should be advised of his/her constitutional rights.

The advisement of rights and waiver shall be documents in the officer's investigative report. When the interrogation is electronically recorded, the advisement of Constitutional Rights, waiver of rights,

and notification that the interview is being recorded should be included in the electronic recording.

- 3) Miranda warnings are not necessary under the following circumstances:
  - a) Before questioning a person who was merely a witness to a crime or who may know something about a crime but is not a suspect.
  - b) Before questioning a suspect who has not been deprived of his/her freedom in any significant way and the person realizes he/she is free to terminate the interview at any time.
  - c) Before questioning a motorist who has been stopped for a routine traffic offense.
  - d) Before asking questions reasonably motivated by concern for public safety.
- 4) Without express questioning, or its functional equivalent, there is no “interrogation” within the meaning of Miranda, even though the suspect may be in custody.
- 5) Right to counsel - once a defendant has expressed a desire to exercise access to counsel, he/she shall not be interrogated until the defendant has obtained counsel or a court-appointed attorney.
- 6) Pre-trial hearing(s) - when a person is arrested with or without a warrant, if the person is not released on bond or his/her own recognizance, he/she shall be brought before the court having jurisdiction without unnecessary delay.
- 7) Pre-trial publicity - Because pre-trial publicity could prejudice a fair trial, Departmental personnel shall follow guidelines outlined in Chapter 26.1.

## B. Recording Custodial Interviews

Definition: Washington State law defines “custodial interrogation” as express questioning, words or other actions by law enforcement which are likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in the custody of law enforcement.

Definition: “Place of Detention” is defined as a fixed location under law enforcement control to include correction institutions, police or sheriff facilities, holding cells, within a law enforcement vehicle, or school institution.

## 1) Recording Consent

When the subject of a custodial interview is a juvenile or the offense is a felony crime for adults, the investigating officer shall assess the following:

- a) No electronic recording or monitoring of protected communication between an attorney and their client shall occur.
- b) If the individual being questioned is a suspect, or the officer believes that there is potential that the individual could at some point be a suspect in a felony crime in the complaint being investigated, the officer shall record the interview to include advise of Constitutional Rights and waiver. The only exception to this requirement would be if the subject of the interview is unwilling to consent to the recording as outlined in RCW 9.73.030(3), or a recording exception applies.
- c) If the individual being questioned refuses to consent to the interrogation being recorded, the officer shall request the individual to have their refusing to consent documented by electronic recording. If the individual being questioned refuses to have their decline to provide consent recorded, the officer shall at a minimum thoroughly document the refusal in a written investigative report.
  - 1. The interrogation should, when possible, occur at a "Place of Detention." Interview conducted in a "Place of Detention" shall be conducted in a room equipped to audio and video record the interrogation.
  - 2. When it is impractical to conduct such an interview in a properly equipped room at a law enforcement facility, the interview will be recorded using at minimum audio recoding capability, and unless circumstances beyond the officer's control prevent them from doing so, the interrogation will be recorded by using audio and video functions of a body worn camera.
  - 3. Exceptions to recording of custodial interrogations are listed below. Any lack of electronic recording when required by statute shall be thoroughly documented in a narrative report.
    - a. Individual being questioned refuses to participate if interrogation is recorded.

- b. Recording of interview is not feasible due to exigent circumstances.
  - c. The interrogation occurs in another state and is in compliance with that state's law or is conducted by a federal agency in compliance under federal law. There shall be no intentional act of avoiding compliance with the custodial interview requirements.
  - d. Equipment malfunction or failure.
  - e. Spontaneous statements.
  - f. Electronic recording of the interview would present a threat to the safety of the individual being questioned, the officer, or another individual.
  - g. Such electronic recording would compromise the identity of a confidential informant.
  - h. No recording equipment available.
  - i. The officer had no knowledge of facts or circumstances that would have required the interview to be recorded.
- d) If the officer begins an interrogation for a crime that does not require electronic recording by statute, and at any point facts are revealed that would lead the officer to believe an act has been committed that would otherwise require electronic recording of the interrogation, the officer shall then follow the custodial interview recording protocol if at all feasible. If the officer does not electronically record the remaining portion of the interview after such facts are revealed, the officer shall thoroughly document his or her justification for doing so in a written investigative report.
  - e) Officers will to the best of their ability based on the conditions present position the recording equipment to provide the most accurate, reliable, and complete depiction of the recorded interview.
  - f) State law requires that the subject of the recorded interrogation be made aware that there is an electronic recording being made of the interrogation. Advisement of the recording and obtaining consent to record should be captured as part of the electronic record with the interrogation.

- g) Video monitoring without the use of audio recording capability can occur at anytime for the purposes of officer safety, checking welfare, documentation, or related circumstances that would justify such action.
- h) All recorded interviews shall be documented in the officer's written narrative report as required with any other digital evidence. Entering recorded interviews into digital evidence is detailed under Chapter 36 – Evidence handling Procedures.

2) Supervisory Review and Accountability of Recorded Custodial Interrogations

- a) Supervisors will monitor and review electronic recordings by staff to ensure the protocol is being performed properly which includes observing field performance, review of written documentation, inspection of equipment to ensure serviceability, requesting repair/replacement as necessary, and to identify/address any performance deficiencies.

## **1.7 SEARCH AND SEIZURE**

Search and/or seizure by type:

A. Search by Consent:

- 1) The consent must be "voluntary."
- 2) The consent must be granted by a party having the authority to give consent.
- 3) The search must be limited to the scope of the consent granted.
- 4) The consent may be revoked.
- 5) Written consent is required when searching premises and is preferred on other searches.

B. Stop and Frisk:

- 1) Search must fall within one of the exceptions to the warrant requirements as set forth in the 4<sup>th</sup> Amendment and Articles 1 and 7 of the U. S. Constitution. The Officer must be able to articulate circumstances where they have reason to fear for their safety in order to take such action.

C. Movable Vehicle Exception:

- 1) Absent the vehicle operators' consent, the officer may not search any part of a suspect vehicle for evidence of a crime without a search warrant, vehicle trunk included.
- 2) Searches incident to arrest must be conducted in accordance within the scope of current case law.

D. At the Scene of a Crime:

- 1) The U. S. Supreme Court has ruled there is no exception to the 4<sup>th</sup> Amendment for crime scene searches. However, in responding to a homicide or serious assault scene, Officers may:
  - a) Make warrantless entry where they reasonably believe a dead body or injured person shall be found. A suspected dead body may still be alive, and entry is justified under the Emergency Doctrine.
  - b) Examine the body itself.
  - c) Search the premises for other victims or suspects.
  - d) Seize any evidence in plain view while inside the residence pursuant to any of the above permissible activities.

E. Public Safety, Exigent Circumstances:

- 1) The Emergency Doctrine allows warrantless entry.
- 2) The need to protect or preserve life, avoid serious injury or protect property in danger of damage justifies an entry that would otherwise be illegal.
- 3) Officers shall render aid to individuals in danger and protect their property and premises. Motivation for entry triggers the assertion of the Emergency Doctrine.

F. Inventory Search

- 1) A vehicle may be impounded, and its contents inventoried in order to make note of items of value for the registered owner; however, such inventory searches cannot be used as a pretext for a search for evidence of a crime.
- 2) If there is probable cause to believe the vehicle was used in the commission of a crime or contains evidence of a crime, the Skagit County Prosecutor's Office recommends use of a search warrant whenever possible.

G. Other situations:

- 1) Other situations are as authorized by State and Federal constitutional provisions.

### **1.8 ARREST WITH / WITHOUT WARRANTS**

Anacortes Police Officers are required to apply all applicable legislative and case laws when making arrests with warrants.

- A. Anacortes Police Officers may make arrests without warrants under the following situations:
  - 1) Felonies and misdemeanors committed in their presence;
  - 2) Misdemeanors and gross misdemeanors listed in RCW 10.31.100 which do not occur in the presence of the Officer;
  - 3) Felony investigations where probable cause exists to validate the arrest in accordance with current case law.
- B. Officers shall conduct warrantless searches only in those areas within reach of the suspect, for weapons and contraband or other evidence, unless the search is otherwise dictated by current case law.
- C. If any doubt exists as to whether a search warrant is needed or not, the Officer shall opt for obtaining such warrant. It is prohibited to seek or execute a search warrant or arrest warrant that authorizes no warnings or notice by law enforcement officers prior to executing service of said warrant.
- D. Whenever a question exists concerning the laws governing arrest, search, and seizure, Officers should consult with Supervisory Personnel or legal staff.
- E. Every person who comes into an officer's custody as the result of a custodial arrest shall be properly restrained by handcuffing behind their back unless special circumstances require an alternate method of restraint. If additional restraints such as hobbles are necessary, the officer shall ensure the person's breathing is not restricted as a result of the restraints.

#### **1.8.1 ALTERNATIVES TO ARREST**

- A. When no hazard(s) to the community, victim, or suspect exists, Officers are encouraged to seek alternatives to physical arrests with incarceration.
- B. Officers shall exercise arrest powers in felony situations. Depending on the offense and prosecutorial approval, certain felony arrestees may be released pending arraignment, after interview.



- C. Upon the arrest of a misdemeanor violator, an Officer has the option of issuing a misdemeanor citation and releasing the violator on his/her personal recognizance if it has been reasonably calculated that the violator shall appear at the criminal proceedings. Consideration should be given to the accused's employment, character and mental condition, length of residence in the community, record of conviction, and record of appearance at court proceedings.
- D. Upon contacting a traffic violator, notice(s) of infraction(s) may be issued to the violator and copy(ies) of such infraction(s) filed with the appropriate court.
- E. In lieu of formal action, an Officer may exercise discretion, and choose informal action to solve the problem, such as referral, informal resolution and warning.
- F. Referrals - The Officer shall offer referrals to other agencies and organizations, when in the Officer's discretionary judgment, it is the most reasonable alternative for the offender and the violation.
- G. Informal Resolution - At the Officer's discretion, informal resolutions may be offered to resolve situations or conflicts when they can be adequately addressed by use of a verbal warning, informing the proper agency or organization, advising parents of juvenile activity, etc.
- H. Warnings - A warning may be issued when in the Officer's discretionary judgment, it is the most reasonable alternative for the offender and the violation.

## **1.9 USE OF DISCRETION**

- A. Discretionary power is the power of free decision or latitude of choice within certain legal bounds. When this power is poorly exercised, discretionary power may be viewed by the public as favoritism, bias, or corruption.
- B. It is imperative that Officers take into consideration, when exercising discretionary power, the goals and objectives of the Department, the best interests of the public they serve, any mitigating circumstances, and the severity of the situation at hand.

## **1.10 SEARCHES – STRIP / CAVITY**

Authority for conducting strip searches and body cavity searches is provided in RCW 10.79.080 and RCW 10.79.130. Strip searches and body cavity searches shall be conducted in accordance of RCW 10.79.080, and RCW 10.79.130 as well as the procedures stated in this chapter.

#### A. Search Conditions

- 1) Strip searches shall be conducted in an appropriate area of the police station, or jail, by person(s) of the same gender as the subject being searched.
- 2) No body cavity search shall be conducted, except with a valid search warrant. Body cavity searches shall only be conducted at medical facilities, under sanitary conditions by a physician, registered nurse, or registered physician's assistant.

#### B. Reporting Requirements

- 1) Strip searches shall be documented in the Officer's written report of the incident, which resulted in the strip search being conducted. The report shall reflect the circumstances supporting the need for the search, the date, time, and location the search was conducted, and the names of those person(s) present at the time of the actual search.

#### C. Procedure

- 1) No strip searches are to be filmed or videotaped.
- 2) Strip searches, in accordance with RCW 10.79.130, may be conducted under the following circumstances:
  - a) A person is being incarcerated by order of the court on either a pre- or post-conviction hold;
  - b) The person has been arrested on a "No Bail" warrant;
  - c) The person has been arrested for Escape;
  - d) The person has been arrested for Burglary;
  - e) The person has been arrested for possession of a drug or controlled substance under RCW Chapters 69.41, 69.50 or 69.52;
  - f) The person has been arrested for an offense involving the use of a deadly weapon; or
  - g) The person has been arrested for a violent offense as defined in RCW 9.94A.030.
- 3) Strip searches, in accordance with RCW 10.79, upon an individualized determination of reasonable suspicion or probable cause, and after other less intrusive means, such as a pat down,

electronic metal detector, or clothing searches were conducted, and with supervisory authorization, may be conducted under any of the following circumstances:

- a) There is reasonable suspicion to believe that a strip search is necessary to discover weapons, criminal evidence, contraband or other things concealed on the body of the person to be searched that constitute a threat to jail security.
  - b) There is probable cause to believe that a strip search is necessary to discover other criminal evidence concealed on the body of the person to be searched but not constituting a threat to jail security.
  - c) There is reasonable suspicion to believe that a strip search is necessary to discover a health condition requiring immediate medical attention, and after consultation with jail medical staff.
- 4) Procedures for conducting strip searches are found in [Appendix C](#) of this manual.

#### **1.11 BIASED BASED PROFILING**

The Anacortes Police Department is committed to unbiased policing. The following procedures serve to ensure the public that we are providing and enforcing laws in a fair and equitable manner.

- A. No person shall be singled out or treated differently as a consequence of his/her race, age, ethnicity, national origin, club, or social affiliation. Officers may, however, take into account the reported race, ethnicity, age, sex, or national origin of a specific suspect or suspects based on credible or reliable information that links specific suspected unlawful activity to particular individuals or group of associated individuals of a particular race, ethnicity, or nationality in the same way they would use specific information regarding age, height, weight, etc. about specific suspects.
- B. All investigative detentions, traffic stops, arrests, searches and seizures of persons and/or property by officers shall be based on a standard of reasonable suspicion or probable cause as required by the 4<sup>th</sup> Amendment of the U.S. Constitution and Article 1, Section 7 of the Washington State Constitution. Officers must be able to articulate specific facts, circumstances, and conclusions which support probable cause for arrest or reasonable suspicion for the traffic stop or investigative detention.
- C. In an effort to prevent perceptions of biased law enforcement, officers shall utilize the following strategies when conducting investigative detentions, traffic stops, arrests, and searches and seizures of property:

- 1) Be courteous, polite, and professional.
  - 2) Officers shall introduce themselves and explain to the person the reason for the stop as soon as practical, unless providing this information shall compromise the investigation or the safety of the officers or other persons.
  - 3) Ensure that the length of the detention is no longer than necessary to take appropriate action for the known or suspect offense.
  - 4) Answer any questions the person may have, including explaining options for the disposition of the traffic citation, if relevant.
  - 5) Provide your name and badge number when requested, in writing or on a business card.
- D. Any reported violation of this policy shall be investigated and may result in disciplinary action.
- E. Supervisors shall ensure that all personnel under their command are familiar with the content of this policy and are operating in compliance.
- F. All Officers of the Anacortes Police Department shall receive in-service training as provided by the Washington State Criminal Justice Training Commission dealing with issues of bias-based profiling.
- G. Biased based incidents shall be documented as part of the annual quad-analysis completed by the Patrol Captain. Analysis of biased based incidents will be used to identify any trends during enforcement action taken by the Anacortes Police Department. Enforcement action trends or training deficiencies identified in the quad analysis and supporting data will be reviewed during Command Staff meetings following completion of the quad-analysis. Any identified deficiencies found by the Command Staff will be met with additional training and or further policy review.

## **1.12 USE OF NECESSARY FORCE POLICY**

### **Definitions:**

**Imminent Threat of Serious Physical Injury or Death:** Based on the totality of the circumstances it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the officer or another person.

**Totality of the Circumstances:** 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 peace officer uses such force, and the actions of the peace officer.

**De-Escalation:** A tactic designed to place officers in a position of advantage when dealing with irrational, unpredictable, or persons attempting self-harm. De-Escalation helps officers stay focused and calm during crisis situations to bring chaotic moments to as peaceful of a resolution as the suspect or involved individual will afford.

**Physical Force** – any act reasonably likely to cause physical pain or injury or any other act exerted upon a person's body to compel, control, constrain, or restrain the person's movement. Pat-downs, incidental touching, verbal commands, or compliant handcuffing where there is no physical pain or injury are not considered physical force.

**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 to the officer or others.

The protection of life is at all times more important than either the apprehension of criminal offenders or the protection of property. The member's responsibility to protect life must include his/her own life.

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. The use of Deadly Force is authorized by RCW 9A.16.020 and 9A.16.040. Officers are involved on a daily basis in numerous and varied interactions and, when reasonable and necessary, may use reasonable force in carrying out their duties. Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties in a bias free manner.

The Anacortes Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests. Facts unknown to an Officer, no matter how compelling, cannot be considered in later determining whether the use of deadly force was justified.

All staff approved by the Department to carry weapons in the course of their duties shall receive annual review and training in applicable Department Use of Force Policy.

#### A. Critical Decision Making:

- 1) Use of critical decision making can help officers achieve the expectations outlined in this policy. When safe, feasible, and if appropriate under the circumstances known to the officers when making, or considering whether to make contact with a member of the public, officers should:
  - 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;
  - 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. Officers should 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 command; or Unnecessarily escalating a situation.

#### B. De-Escalation:

Depending on the circumstances, officers have a number of de-escalation tactics to choose from, which may include, but are not limited to:

- 1) Attempting to communicate in non-verbal ways when verbal instructions would be inadequate (such as, when the person and officer speak different languages);
- 2) Communicating in a way that clearly explains the officer's actions and expectations; listen to the person's questions and concerns and

responding respectfully; and being neutral and fair when making decisions;

- 3) Use tactical re-positioning to create the physical distance.
- 4) Re-position as often as reasonable to maintain the advantage of time, distance, and cover.
- 5) When multiple officers are available, designate one officer to communicate with the individual to avoid competing commands.
- 6) Request a Crisis Intervention Team or Mental Health Professional when applicable.
- 7) Request additional officers if resistance is encountered or anticipated.
- 8) Taking as much time as reasonably necessary without the use of physical force or weapons.

C. Reasonable Care:

- 1) A peace 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, a peace officer shall:
  - a) When possible, use all de-escalation tactics that are available and appropriate under the circumstances before using physical force;
  - b) When using physical force, use the least amount of physical force necessary to overcome resistance under the circumstances. This includes a consideration of the characteristics and conditions of a person for the purposes of determining whether to use force against that person and, if force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person: Is visibly pregnant, or states that they are pregnant; is known to be a minor, objectively appears to be a minor, or states that they are a minor; is known to be a vulnerable adult, or objectively appears to be a vulnerable adults as defined in RCW 7.34.020; displays signs of mental, behavioral, or physical impairments or disabilities; is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other

drugs; is suicidal; has limited English proficiency; or is in the presence of children;

- c) Terminate the use of physical force as soon as the necessity for such force ends;
  - d) When possible, use less lethal alternatives that are available and appropriate under the circumstances before using deadly force; and
  - e) Make less lethal alternatives issued to the officer reasonably available for his or her use.
- 2) A peace officer may not use any force tactics prohibited by applicable departmental policy, this chapter, or otherwise by law, except to protect his or her life or the life of another person from an imminent threat.
- 3) Nothing in this section:
- a) 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;
  - b) 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;
  - c) Permits a peace officer to use physical force or deadly force in a manner or under such circumstances that would violate the United States Constitution or state Constitution; or
  - d) Prevents a law enforcement agency or political subdivision of the state from adopting policies or standards with additional requirements for de-escalation and greater restrictions on the use of physical and deadly force than provided in this section.

#### D. Physical Force

- 1) Except as otherwise provided under this section, a peace officer may 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 chapter 9A.76 RCW;
- d) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under chapter 10.77, 71.05, or 71.34 RCW;
- 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; or
- i) Prevent a person from fleeing or stop of 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 peace officer, another person, or the person against whom force is being used.

#### E. Rendering First Aid at the Scene of a Use of Force Incident

- 1) All law enforcement personnel must provide or facilitate first aid such that it is rendered at the earliest safe opportunity to injured persons at a scene controlled by law enforcement including:
  - a) Remove or control any human, environmental, and/or physical threats
  - b) Request Emergency Medical Services
  - c) If there are multiple injured parties at the scene, triage and treat those with the most urgent need for life-saving measures, including maintaining a pulse, controlling bleeding, and maintaining breathing.

- d) Provide appropriate first aid at the level of the officer's training until relieved by emergency medical personnel, a health care professional, or any person on the scene with higher level skills and medical training.
- e) Identify and use available medical resources such as first aid kits, AED's, and tourniquets.
- f) Utilize Personal Protective Equipment (PPE) to ensure the safety of everyone at the scene.

#### F. Peace Officer's Duty to Intervene

- 1) Any identifiable on-duty peace officer who witnesses another peace officer engaging or attempting to engage in the use of excessive force against another person shall intervene when in a position to do so to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force. A peace officer shall also render aid at the earliest safe opportunity in accordance with RCW 36.28A.445, to any person injured as a result of the use of force.
- 2) Any identifiable on-duty peace officer who witnesses any wrongdoing committed by another peace officer, or has a good faith reasonable belief that another peace officer committed wrongdoing, shall report such wrongdoing to the witnessing officer's supervisor or other supervisory peace officer in accordance with the witnessing peace officer's employing agency's policies and procedures for reporting such acts committed by a peace officer.
- 3) A member of a law enforcement agency shall not discipline or retaliate in any way against a peace officer for intervening in good faith or for reporting wrongdoing in good faith or reporting wrongdoing in good faith as required by this section.
- 4) A law enforcement agency shall send notice to the criminal justice training commission of any disciplinary decision resulting from a peace officer's failure to intervene or failure to report as required by this section to determine whether the officer's conduct may be grounds for suspension or revocation of certification under RCW 43.101.105.
- 5) For purposes of this section:
  - a) "Excessive force" means force that exceeds the force permitted by law or policy of the witnessing officer's agency.

- b) "Peace officer" refers to any general authority Washington peace officer.
- c) "Wrongdoing" means conduct that is contrary to law or contrary to the policies of the witnessing officer's agency, provided that the conduct is not de minimis or technical in nature.

### **1.12.1 DEADLY FORCE**

Except as otherwise provided under this section, a peace 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. For purposes of this subsection: "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 or another person.

#### **A. Definitions, as used in this Policy:**

- 1) **"Involved Officer"** – Any department member who was directly involved with the use of force before or during a lethal force confrontation, including but not limited to: the "shooter officer," his or her partner involved in the use of force and any member that has discharged a firearm during the confrontation regardless if rounds struck the suspect or not. Mere possession of material facts does not constitute involvement. Any member in possession of material fact should be classified as a witness or victim.
- 2) **"Force"** – Any act aimed at detention or control. Actions taken through the use of a person's body, weapons, equipment, and/or other instruments, to assist in controlling a situation or the behavior of others.
- 3) **"Deadly or Lethal Force"** - The intentional application of force by whatever the means imposed, reasonably likely to cause death or serious physical injury.
- 4) **"Necessary"** means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force to be used is reasonable to accomplish the lawful purpose intended.

- 5) “**Member**” - Any full-time or part-time employee, or any volunteer, while directly acting as an agent of the City of Anacortes Police Department.
- 6) “**Officer**” - means a commissioned Officer of the City of Anacortes Police Department.
- 7) “**Reasonable belief**” - Facts, circumstances or knowledge present to the Officer sufficient to justify a thought or feeling.
- 8) “**Serious bodily injury**” - (as described in RCW 9A.04.110) is injury which creates a probability of death or which causes significant, permanent loss or impairment of the function of any bodily part or organ.
- 9) “**Serious bodily injury**” – is injury which creates a probability of death or which causes serious permanent disfigurement, significant permanent loss or impairment of the function of any bodily part or organ.
- 10) “**Neck Restraint**” – Any vascular restrained or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purposes of constricting blood flow.
- 11) “**Chokehold**” – The intentional application of direct pressure to a person’s trachea or windpipe for the purpose of restricting another person’s airway.

B. When possible, Officers are expected to use less lethal alternatives that are available and appropriate under the circumstances prior to using deadly force and have less lethal alternatives that are issued to the officer available for the officer’s use.

C. Deadly force may only be used under the following circumstances:

- 1) When based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious bodily injury to the peace officer or another person, and the officer believes the deadly force is reasonably necessary to protect the Officer or others from what he or she reasonably believes is an imminent threat of death or serious physical injury.

2) Choke Holds and Neck Restraints

A new law enacted by the Washington State Legislature under HB 1054 in 2021 prohibits Law Enforcement from utilizing any form of neck restraint or hold, included the “carotid and choke” holds.

However, another law passed in 2021 (HB1310 – “Permissible Use of Force”) states (Section 3) – “A peace officer may not use any force tactics prohibited by applicable departmental policy, this chapter, or otherwise by law, except to protect his or her life or the life of another person from an imminent threat.”

\*Understanding the clarity of this law (HB1310) and the dynamic nature of a life-or-death struggle, nothing in this chapter should be interpreted to mean that an officer cannot use any and all means necessary to save his/her own life or that of a citizen or victim he/she is duty bound to protect.”

At all times during the application of the hold, the response of the individual should be monitored. The holds should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.

- a) Any individual who has had the carotid control or choke hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- b) The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control or choke hold and whether the individual lost consciousness as a result.
- c) Any officer attempting or applying the carotid control or choke hold shall promptly notify a supervisor or the use or attempted use of such hold.
- d) The use or attempted use of the carotid control or choke hold shall be thoroughly documented by the officer in any related reports.

#### D. Shooting at or From Moving Vehicles

- 1) Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. Officers shall not fire a weapon upon a moving vehicle unless there is no other option, and it is 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. For the purposes of this section, a motor 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 physical harm are immediately available to the officer. Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

#### **1.12.2 OFFICER INVOLVED DEADLY FORCE INCIDENT - SEPARATE INVESTIGATIONS**

- A. A criminal investigation of the incident by the designated Independent Investigative Team (IIT), which would be the SMART team if the incident involved a member of the Anacortes Police Department, and/or occurs within Skagit or Island Counties.
  - a) The Washington State Office of Independent Investigation has the option to assume responsibility for the independent investigation at their discretion.
- B. A criminal investigation of the involved officer(s) conducted by an outside agency.
- C. A civil investigation to determine potential liability conducted by the involved officer's agency.
- D. An administrative investigation conducted by the involved officer's agency, to determine if there were any violations of agency policy.

#### **1.12.3 OFFICER INVOLVED SHOOTING / DEADLY FORCE: JURISDICTION**

Jurisdiction is determined by the location of the incident and the agency employing the involved officer(s). The following scenarios outline the jurisdictional responsibilities for investigating officer involved deadly force incidents:

##### **A. APD Officer within this Jurisdiction**

The Anacortes Police Department is responsible for the criminal investigation of the suspect's actions, the civil investigation, and the administrative investigation. The criminal investigation of the officer involved incident will be directed/coordinated by the County Prosecutor's Office.

##### **B. Allied Agency Member Within APD Jurisdiction:**

The Anacortes Police Department is responsible for the criminal investigation of the suspect's actions. The criminal investigation of the officer involved incident will be directed/coordinated by the County Prosecutor's Office. The officer's employing agency will be responsible for any civil and/or administrative investigation(s).

##### **C. APD Officer in another Jurisdiction:**

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Anacortes Police Department will conduct timely civil and/or administrative investigations.

#### **1.12.4 THE INVESTIGATION PROCESS**

The following procedures are guidelines used in the investigation of an officer-involved deadly force incident:

##### **A. DUTIES OF THE INITIAL ON-SCENE SUPERVISOR:**

- 1) Upon arrival at the scene of an officer-involved incident, the first uninvolved supervisor should:
- 2) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals. Care should be taken to preserve the integrity of any physical evidence present on the Officer, equipment or clothing (e.g., blood, fingerprints, etc.) until investigators or lab personnel can properly retrieve it.
- 3) When possible, a supervisor shall obtain a brief verbal explanation of what occurred from involved officer, or officers, in order to be able to guide the on-scene investigation. Garrity advisements are not required for purposes of the brief verbal explanation. The involved officer, or officers, should not be compelled to make an official statement, or complete any written reports for a seventy-two (72) hour period, unless necessary. Reports and statements include, but are not limited to: an interview of the affected members by the assigned investigative unit personnel, written reports of investigation, statements to internal investigators, etc.
- 4) If necessary, the supervisor may administratively order any officer from this department to immediately provide public safety information necessary to secure the scene and pursue suspects. Public safety information shall be limited to such things as outstanding suspect information, number and direction of shots fired, parameters of the incident scene, identity of known witnesses and similar information.
- 5) Provide all available information to the shift supervisor and SKAGIT 911. If feasible, sensitive information should be communicated over secure networks.

- 6) Take command of and secure the incident scene with additional personnel until relieved by a detective supervisor or other assigned personnel.
- 7) As soon as practical, involved officers should respond or be transported (separately, if feasible) to the station for further direction.
- 8) Each involved officer should be given an administrative order not to discuss the incident with other involved officers pending further direction from a supervisor.
- 9) When an officer's weapon is taken or left at the scene (e.g., evidence), the officer will be provided with a comparable replacement weapon or transported to the station by the chief of police or his/her designee.

#### B. SHIFT SUPERVISOR DUTIES:

Upon learning of an Officer-involved deadly force incident, the shift supervisor shall be responsible for coordinating all aspects of the incident until relieved by the Chief of Police or command level personnel. For all officer-involved deadly force incidents resulting in injury, the Chief of Police or designee will request investigative assistance from another law enforcement agency. For all other deadly force incidents, the Chief of Police or designee will identify the agency responsible for the investigation.

##### 1) NOTIFICATIONS:

The following person(s) shall be notified as soon as practical:

- a) Chief of Police; Administrative Captain; Patrol Captain; Prosecuting Attorney; Psychological/Peer support personnel/Critical Incident Stress Debriefing (CISD);
- b) Officer Representative (if requested)
- c) All outside inquiries about the incident shall be directed to the Chief of Police or assigned Public Information Officer.

##### 2) MEDIA RELATIONS

- a) A single press release shall be prepared with input and concurrence from the supervisor and agency representative responsible for each phase of the investigation. This release will be available to the shift supervisor, criminal investigations unit and Public Information Officer in the event of inquiries from the media. All media releases, news broadcasts or printed news coverage will, if practical, be captured and placed into the investigative case files.
- b) It will be the policy of Anacortes Police Department to not release the identities of involved officers absent their consent or



as required by law. Moreover, no involved officer shall be subjected to contact from the media and no involved officer shall make any comments to the press unless authorized by the Chief of Police or designee.

- c) Law enforcement officials receiving inquiries regarding incidents occurring in other agency jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

### 3) INVOLVED OFFICERS

Once involved officer(s) have arrived at the station, the shift supervisor should admonish each officer that the incident shall not be discussed except with authorized personnel or representatives. The following shall be considered for the involved officer:

- a) Any request for legal representation will be accommodated.
- b) While discussions with licensed attorneys will be considered privileged as attorney-client communications, no involved officers shall be permitted to meet collectively or in a group with an attorney prior to providing a formal interview or report.
- c) Discussions with department representatives (e.g., employee association) will be privileged only as to the discussion of non-criminal information however; Uninvolved officers shall be permitted to meet collectively or in a group with a representative or attorney prior to providing a formal interview or report.
- d) A psychotherapist shall be provided by the department to each involved officer, or any Officer upon request.
- e) Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the officer is or is not fit for return to duty.
- f) If an interview or session with a licensed psychotherapist takes place prior to the involved officer providing a formal interview or report, involved officers shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
- g) The police department will consider communications between qualified peer counselors and involved officers to be privileged (RCW 5.60.060).
- h) Detectives shall make reasonable accommodations to the officer's physical and emotional needs. Each involved officer shall be given reasonable paid administrative leave following an officer-involved deadly force incident, and it shall be the

responsibility of the Patrol Captain to make schedule adjustments to accommodate such leave.

4) THE SHOOTING / DEADLY FORCE INCIDENT CRIMINAL INVESTIGATION - DETECTIVE PERSONNEL:

Once notified of an officer-involved shooting or deadly force incident, it shall be the responsibility of the Administrative Captain to assign appropriate detective personnel to handle the investigation of related crimes. All related police department reports except administrative and/or privileged reports will be forwarded to the Administrative Captain for approval. Privileged reports shall be maintained exclusively by those personnel authorized such access. Administrative reports will be forwarded to the Chief of Police.

5) CRIMINAL INVESTIGATION

- a) It shall be the policy of this department to utilize the Skagit County Prosecutor's Office to conduct an independent criminal investigation into the circumstances of any officer- involved shooting or deadly force incident involving injury or death. If available, detective personnel from this department may be assigned to "partner" with investigators working on behalf of the Skagit County Prosecutor's Office so as to not duplicate efforts in related criminal investigations.
- b) Once public safety issues have been addressed, criminal investigators will be given the next opportunity to interview involved officers in order to provide them with an opportunity to give a voluntary statement. The following shall be considered for the involved officer(s):
- c) Supervisors and APD administrative personnel should not participate directly in any voluntary interview of officers. This will not prohibit such personnel from monitoring such interviews or indirectly providing areas for inquiry.
- d) If requested, any involved officer will be afforded the opportunity to consult individually with a labor or guild representative or an attorney, prior to speaking with criminal investigators. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- e) Any voluntary statement provided by the officer(s) will be made available for inclusion in the administrative or other related investigations.

- f) Absent consent from the involved officer or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.

#### 6) REPORTS BY INVOLVED OFFICERS:

- a) In the event that suspect(s) remain outstanding or subject to prosecution for related offenses, APD shall retain the authority to require involved officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.
- b) While the involved officer may write the report, it is generally recommended that such reports be completed by assigned investigators who should interview involved officers as victims/witnesses. Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved officers should focus on evidence to establish the elements of the crime and/or criminal activities by involved suspect(s). Care should be taken not to duplicate information provided by involved officers.
- c) Nothing in this section shall be construed to deprive an involved officer of the right to consult with legal counsel prior to completing any such criminal report. Reports related to the prosecution of criminal suspects will be processed according to normal procedures, but should also be included for reference in the investigation of the officer-involved deadly force incident.

#### 7) ADMINISTRATIVE INVESTIGATION:

- a) In addition to all other investigations associated with an officer-involved deadly force incident, this department will conduct an internal administrative investigation to determine conformance with department policy.
- b) This investigation will be conducted under the supervision of a Captain and will be considered a confidential peace officer personnel file.
- c) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
- d) If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his or her prior statement before proceeding with any subsequent interview(s).

- e) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
- f) Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
- g) If requested, the officer shall have the opportunity to select an uninvolved representative from within his/her labor unit or guild, to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- h) Administrative interview(s) should be recorded by the investigator (the officer may also record the interview).
- i) The officer shall be informed of all constitutional "Miranda" rights and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions. The officer shall be informed, however, that the interview will be for administrative purposes only and that the statement cannot be used criminally (The Garrity admonishment).
- j) The administrative interview shall be considered part of the officer's confidential personnel file.
- k) The Administrative Captain shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
- l) The completed administrative investigation shall be submitted to the Use of Deadly Force Review Board, which will restrict its findings as to whether there was compliance with the Department use of deadly force policy.
- m) The Deadly Force Review Board should consist of the following: The presenting lead investigator, a note-taker, one peer officer, one patrol sergeant, one department firearms instructor, a deputy prosecutor and a presiding command level officer.
- n) The focus of the review board will be in three separate areas:
  - 1. Was the force used lawful and in accordance with APD policy?

2. Were there any shortcomings with respect to training and/or equipment?
3. Recommendations for remedial action to address any shortcomings.
  - o) The review board's final report and recommendations will be prepared by the command level officer presiding and forwarded to the Chief of Police.
  - p) Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.
  - q) Any officer-involved in a shooting will be relieved from line duties pending formal review for return to full duty status (see APD Policy 1.17 – Removal from the Line of Duty).

### **1.13 WARNING SHOTS**

- A. Warning shots in an attempt to induce surrender of a suspect are not authorized.

### **1.14 LESS-LETHAL WEAPONS**

- A. Use of less-lethal force is authorized by RCW 9A.16.020, and may be utilized when use of force is necessary and legally authorized. To successfully deal with situations requiring justifiable use of reasonable force, and minimize risk to the public and Officer(s) involved, certain less-lethal weapons are authorized for use by Department personnel.
- B. A less-lethal weapon is any weapon other than a firearm or knife used to control persons or defend the member or others from harm. Only authorized less-lethal weapons may be used:
  - 1) Less-lethal weapons include but are not limited to impact weapons, kinetic energy projectiles, TASER, BolaWrap and Oleoresin Capsicum (OC spray). Uniformed Officers assigned to Patrol should carry at least one less lethal weapon on their person.
- C. No member shall carry or use any lethal or less-lethal weapon without prior approval of the Department. All weapons must be approved by the Chief of Police in writing. No personnel shall carry any weapon with unapproved modifications.

- D. Officers shall receive biennial retraining with less-than-lethal weapons. This retraining shall be documented in Department training files. Officers authorized to carry kinetic energy projectiles shall receive annual training for that weapon.
- E. Officers who are certified to carry an impact weapon are required to have it in ready access while working a uniform patrol assignment. Ready access requires the baton be at least available and carried in the patrol vehicle.
- F. Officers may carry their departmentally authorized less-lethal weapons while off duty. Any off duty use of less-lethal weapons by Department members must comply with Departmental guidelines, and must be reported in writing to the affected member's Supervisor, Patrol Captain, and Chief of Police.

#### **1.15 RENDERING AID AFTER USE OF FORCE**

- A. Appropriate medical treatment shall be summoned through dispatch after lethal or less-lethal force is used, whenever:
  - 1) There is any obvious injury.
  - 2) There is any complaint of injury.
  - 3) When an injury is suspected.
  - 4) The subject becomes unconscious at any time.
  - 5) The officer or the officer's Supervisor requests medical treatment be provided.
- B. Initial medical treatment may be provided by the officer depending on the training and expertise of that officer.

#### **1.16 USE OF FORCE - REPORTING**

- A. A Use of Force Report shall be completed whenever an officer:
  - 1) Discharges a firearm for other than the training or recreational purposes, or necessary to dispatch an injured animal;
  - 2) Takes any action that results in, or is alleged to have resulted in, injury or death of another person;
  - 3) Applies force through the use of lethal or less-lethal weapons;
  - 4) Takes any action that is capable of causing injury to a person;
  - 5) Applies unarmed defensive tactics and:
    - a) Medical treatment is requested or required; or

- b) The force used results from a criminal charge (i.e. resisting arrest); *or*
- c) Documentation is requested by the member or the member's Supervisor; *or*
- d) Any Officer who displays a firearm and uses it coercively to obtain compliance by directly targeting or displaying the use of deadly force option toward suspects, without regard to the threat that is presented or perceived by the officer.

B. Use of Force Report is found in [Appendix D](#) of this manual.

- 1) The Use of Force report shall be completed as soon as practical after the use of force occurs, but prior to the involved employee(s) going off duty, except for cases in which deadly force is used. In cases where deadly force is employed, the officer shall have an opportunity to contact and consult with legal counsel before completing this report. The report shall be forwarded to the appropriate Supervisor, who shall review and approve the report for completeness, accuracy, and compliance with policy, then forward up the chain-of-command for timely review.
- 2) Members are required to report any discharge of firearms, whether deliberate or accidental:
  - a) Whenever a member discharges a firearm while performing any police function with the exception of approved firearms training, that member shall report the facts of the incident orally to his/her immediate Supervisor as soon as practical after the incident in which the weapon was fired.
  - b) A written report shall be submitted by the member involved prior to the end of the shift during which the firearm was discharged.
  - c) If the member involved is injured, or unable to make the report, the member's immediate Supervisor shall submit a written report prior to the end of the shift. This report shall be submitted through the established chain of command to the Chief of Police, and shall include a diagram as well as a detailed account of the incident.

C. If a member discharges a firearm while off-duty for reasons other than legal sporting activities, target practice, or other legal activity not involving the police department, the member shall:

- 1) As soon as practical and physically able, notify the on-duty Anacortes Police supervisor, who, in turn shall notify the Duty Command Officer. The Duty Command Officer shall make a determination regarding any additional notifications and further investigation.
- 2) File a written report through the chain of command to the Chief of Police upon the member's return to duty or upon the request of an investigating Officer.

D. Annual Analysis of Use of Force

- 1) In January of each year, the Chief shall direct that an annual analysis of Use-Of-Force incidents occurring the prior calendar year be conducted. The analysis shall include the number of types of Use-Of-Force reports as required by section 1 of this policy.
- 2) The Chief shall review the annual analysis to determine if there are patterns of trends that could indicate training needs and/or policy modifications.

**1.16.1 USE OF FORCE - REVIEW**

- A. When force is used, a review of those actions shall be conducted by the Patrol Captain. All Use of Force reports shall be reviewed by the Supervisor, with a determination made about whether the use of force was within Department policy. Use of Force report forms shall be forwarded via the member's chain-of-command.
- B. Where a possibility exists that the member's actions may not be in compliance with Department policy, but termination or criminal action is unlikely, the Chief shall send the matter to a Department Review Board comprised of the Patrol Captain, Patrol Sergeant, and an officer. After reviewing the facts, the Board shall make a finding as to whether the incident is in compliance with Department policy. When appropriate, the Board shall make recommendations for disciplinary action in compliance with policy.
- C. A complete investigation shall be conducted into all shooting incidents, including any deliberate or accidental discharge of a firearm in the line of duty, except when firing on the police range, unless an injury results from firing at the range.
- D. In the event of an accidental discharge of a firearm, the member's immediate Supervisor shall notify the Duty Command Officer, complete an on-scene investigation and prepare a report to the Chief of Police through the established chain of command. In the event of an accidental discharge at the Range, the presiding Firearms Instructor shall prepare a report to the Chief of Police through the established chain of command.



- E. In the event a member intentionally discharges a firearm or utilizes any other weapon while on duty, or while undertaking a police function which injures or kills another person, the member shall comply with the provisions of Chapter 1.5.
- F. All Anacortes Police Officers shall assist the Investigator(s) or outside agency, and work under their direction in the conduct of the investigation. The Anacortes Police Officer involved in a shooting incident shall respond only to proper inquiries of other authorities and restrict comments only to facts. All inquiries from the news media shall be directed to the Chief of Police or their designee.
- G. The Chief of Police shall review the facts of the incident and the findings and recommendations of the internal investigation. If the Chief of Police determines that a use of force with weapon is not within policy and disciplinary action is warranted, the Chief of Police shall determine the appropriate disciplinary action.

#### **1.17 REMOVAL FROM LINE OF DUTY**

- A. When death or serious injury has resulted from the use of deadly force by a Department member, that member shall immediately be placed on administrative leave by the Duty Command Officer. Administrative leave is in the interest of the Department and the Officer, and shall not be waived.
- B. An Officer involved in a death/serious injury incident shall be removed from their line duty assignment and placed on mandatory administrative leave with pay for the duration of the Officer's shift and the following shifts, as determined by the Chief of Police.
- C. The involved Officer shall meet for de-briefing and counseling with a departmentally designated psychologist or psychiatrist experienced in assisting law enforcement personnel and their families to recognize and cope with the natural responses to a death or serious injury incident. The de-briefing meeting is mandatory and cannot be waived.
- D. The de-briefing meeting should take place as soon as possible following the incident unless the Officer's medical condition precludes the meeting within that period of time. All conversations between the Officer and the de-briefing psychologist or psychiatrist are considered confidential and subject to the doctor-patient privileges.
- E. When an officer has been placed on administrative leave pursuant to this policy, the Chief of Police shall determine:
  - 1) Whether or not the member should report to full duty on his/her regular assignment.

- 2) In determining the appropriate administrative action to take in terminating the officer's administrative leave and returning the officer to regular duty, the Chief of Police may seek and consider the professional opinion of any psychological counselor and/or treating physician as to:

- a) Whether the officer needs additional recuperating time.
- b) Whether any modification of the officer's regularly assigned duties should be considered in order to facilitate the officer's speedy return to full productivity.

F. Death or Serious Injury to Officer - In the event of serious injury or death to an Officer, his family shall be notified in person by the Chief of Police, or other person(s) deemed most appropriate. In the event of an Officer's death or serious injury, the Department shall advise his/her family of appropriate professional assistance available and any benefits accruing to the family from the City of Anacortes and other governmental entities. The Chief of Police may grant administrative leave to a Department employee for the purpose of assisting the involved Officer's family for such length of time as deemed appropriate. Complete procedures for In the Line of Duty Deaths are located in Chapter 35 of this manual.

## **1.18 AUTHORIZED WEAPONS AND AMMUNITION**

### **A. Definitions**

- 1) "Member" and "commissioned personnel" as used herein, means a full-time employee of the Anacortes Police Department, regardless of rank or position.
- 2) "Uniformed commissioned personnel" specifically refers to those members who usually wear a police uniform for the majority of their hours of duty.
- 3) A "primary" sidearm means the pistol the employee is normally expected to carry while on-duty.
- 4) "Secondary" sidearm means a personally owned firearm carried while on duty in addition to the Officer's primary sidearm, and which is essentially intended for the self-defense of the Officer when his/her primary sidearm is unavailable or when circumstances reasonably preclude or restrict its use.
- 5) "Proficiency" means to demonstrate the proper loading, unloading, and safety techniques of the firearm and requires the attainment of a minimum passing shooting score on a qualification course.

- 6) "Qualified" means to have attained a minimum passing shooting score in any qualification or practice session conducted by a Firearms Instructor.

B. Authorization - Members of the Department shall carry only those weapons authorized, lethal and less-than-lethal. Only firearms and ammunition meeting Department-authorized specifications may be used by Department personnel in law enforcement responsibilities, both on and off duty.

- 1) Firearms shall not be displayed, exhibited, handled, or placed in such a manner or position that would initiate valid criticism of the Department, or violate public safety. In addition, firearms shall not be handled and/or placed in a manner, which endangers person in the proximity of the firearm.
- 2) All firearms intended for use by each department member shall first be inspected and approved by a range instructor prior to authorization for use.
  - a) Prior to carrying weapons, including firearms and less-lethal, Department members shall demonstrate proficiency as prescribed in Chapter 1.5.
  - b) Maintaining firearms in a safe and ready condition is the responsibility of the employee to whom the firearm is assigned for use. Unsafe firearms shall be removed from service and reported immediately to the employee's Supervisor. Unsafe firearms shall be forwarded to the range officer for replacement and repair/disposal.
  - c) A complete record of each weapon, both lethal and less-lethal, approved for use by Department members shall be maintained by the Administrative Captain. Approval is conditional upon periodic requalification as required in Chapter 1.19, and each record shall include:
    1. Weapon type, description, model, and serial number;
    2. Identity of owner and/or assignee;
    3. Name of person approving use, and date of approval;
    4. Record of demonstrated proficiency.

C. Handguns

- 1) Issued sidearm: Every commissioned member in uniform shall carry a primary sidearm in service-ready conditions with two extra loaded magazines on his or her person during hours of duty. Every regular Officer employed by the Department shall be issued a duty weapon. It is not required that a firearm be carried while inside the Anacortes Police Department.
  - a) Plain-clothes personnel assigned to enforcement and/or investigative activities shall carry a primary sidearm and an additional loaded magazine on his/her person during hours of duty. Plainclothes Officers shall carry their firearm in an approved holster.
  - b) Undercover Officers may carry firearms consistent with their particular type of assignment, with the specific approval of the Chief of Police.
- 2) On-Duty: The issue duty sidearm for all commissioned personnel and/or for wear with the police uniform by all commissioned members shall be a Glock model 22, 40 S&W caliber pistol, or a Sig Sauer P320 9mm caliber pistol.
  - a) Deviations from this may occur only with the approval of the Chief of Police.
- 3) Firearms carried on duty shall be maintained in a clean serviceable condition, subject to any immediate inspection by a Supervisor or range officer. The range officer shall inspect each firearm during firearms qualification.
- 4) Off-Duty: Officers may, at their option, carry their employer provided duty handgun while off duty, in a concealed manner. Absent a Washington State Concealed Pistol license, departmental identification must be carried if the officer is armed with their on-duty or any personally owned firearm being carried in a concealed manner. Officers should exercise discretion where being armed is inappropriate, especially where intoxicating beverages are being consumed by the officer.
- 5) A secondary sidearm may be worn by commissioned Officers, provided that the secondary sidearm conforms to the following specifications, and is carried in a concealed manner. All secondary side arms shall first be inspected and approved in writing by a range officer for safety and caliber. A range officer must certify that the Officer has demonstrated the required proficiency, and on the basis of

safety, the method by which the secondary sidearm is to be carried.

- a) A semi-automatic pistol or double-action revolver with a minimum of five-round capacity in any of the following calibers:
  - 1. 38 SPL, .357 Mag., 9mm, .40 S&W, .45 ACP.
  - 2. The secondary sidearm will be carried in an approved holster and concealed.
- 6) Inspections of firearms shall be done by the Department's designated firearms instructor.
  - a) Mechanically unsafe firearms shall not be knowingly carried on duty.
  - b) Any malfunction of a firearm shall be reported immediately to the shift Supervisor who shall see that a replacement is issued and that the unsafe Departmental firearm is submitted to a qualified armorer for repair. Personally owned weapons shall be repaired at the Officer's expense before being used on duty. Once repaired, the range officer shall inspect the repair, prior to allowing the Officer to carry it on duty.
- 7) Storage of handguns is outlined in IX below.

#### D. Rifles / Shotguns

- 1) Department issued rifles and shotguns are authorized for carry by officer on duty. Non-issued rifles and shotguns may be carried only after authorization has been obtained from the Chief of Police.
- 2) No officer shall carry a rifle or shotgun on duty until he/she has completed the prescribed department training and been certified by a department firearms instructor.
- 3) All officers who are authorized to carry rifles or shotguns on duty shall complete an annual qualification with their assigned weapon.
- 4) The rifle is a mandatory weapon for officers. The shotgun is an optional weapon; however, all officers should be familiar with this weapon. Both weapons are optional for Command Staff.
- 5) Storage of rifles is in accordance with section IX below.

#### E. Less-Lethal Weapons

- 1) Less -lethal weapons may be used:

- a) Less-lethal weapons include but are not limited to impact weapons, and Oleoresin Capsicum (OC spray), and TASER.
- b) No member shall carry or use any lethal or less-than-lethal weapon, on or off duty, without prior approval of the Department. All weapons must be approved by the Police Chief. No personnel shall carry any weapon with unapproved modifications.
- c) Officers may carry authorized less-than lethal weapons while off-duty, as appropriate.

## 2) Tactical Chemical Agents

Tactical chemical agents are not presently issued by the Department but could potentially be used when in compliance with state law during situations where another agency special tactical team is assisting within the city limits at the request of Department Supervisors or Command Staff.

Definition: Tear gas is defined as chloroacetophenone (CN), o-chlorobenzylidene malononitrile (CS), and any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury. The definition of "tear gas" does not include oleoresin capsicum (OC).

- a) Tactical chemical agents are only authorized for circumstances involving a riot, barricaded subject, or hostage situation when subjects involved pose a risk of serious harm to other people.
- b) Tactical chemical agents will not be deployed until the following considerations are completed:
  - 1. All reasonable alternatives or lessor force options have been considered.
  - 2. Sufficient warnings shall be clearly communicated to those affected by the chemical agent deployment and sufficient time and space has been provided for affected individuals to comply.
  - 3. When a warning in a barricaded subject or hostage situation would increase risk to people directly affected by the subject's actions, the Tactical Commander may authorize deployment without notice or providing time and space for the subject to react.

- c) For a barricaded subject or hostage situation, the Tactical Team Commander has reviewed the tactical chemical agent request, deemed it reasonable, has expressly approved the use, and a Department Command staff member is in concurrence.
- d) For public disturbances (RCW 9A84.020) where participants conduct knowingly and unlawfully uses or threatens to use force against another person or property, the Tactical Commander will review the use request with the Incident Commander and subsequently present the request Tactical Chemical Agents to the Mayor for final authorization. In such instance that the Mayor is unavailable, the request will be submitted to the Mayor Pro-temp.

#### F. Kinetic Energy Projectiles

- 1) This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.
- 2) **Deployment and Use:** Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

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

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- b) The suspect has made credible threats to harm him/herself or others.
- c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

- 3) **Deployment Considerations:** Before discharging kinetic energy projectiles, the officer should consider such factors as:
- a) Distance and angle to target.
  - b) Type of munitions employed.
  - c) Type and thickness of subject's clothing.
  - d) The subject's proximity to others.
  - e) The location of the subject.
  - f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate. A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacture recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The head and neck should not be intentionally targeted, except in situations when deadly force is authorized.

- 4) **Safety Procedures:** Shotguns specifically designated for use with kinetic energy projectiles will be specifically marked in a manner that makes them readily identifiable as such. Officers will regularly inspect the shotgun and projectiles to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and securely stored in the officers assigned patrol vehicle. When deploying the kinetic energy projectile shotgun, the officer shall visually inspect the kinetic energy projectiles to ensure that the conventional ammunition is not being loaded into the shotgun. Although kinetic energy projectile shotguns are capable of using conventional shotgun ammunition, they are only intended for use only with approved kinetic energy projectiles.

- 5) **Instructor Responsibilities:** The Range Officer shall control the inventory and issuance of all kinetic energy projectiles that are deployed using a firearm or a launcher device.



The Range Officer shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

The Range Officer shall at least annually inspect kinetic energy projectiles and the associated firearm or launcher device.

#### G. TASER

- 1) The TASER is classified as a less-lethal conducted energy device that is used to gain compliance of aggressive or non-compliant persons. The TASER is deployed in an attempt to temporarily incapacitate potentially dangerous persons as safely as possible. A TASER is not deployed on a passive resistant subject unless overriding safety concerns warrant use. The justification for use of the TASER is to overcome resistance or aggression, and control a suspect's actions. Deployment Guidelines are found in [Appendix F](#) of this manual.

#### H. Impact Weapons

- 1) Only agency issued or agency approved impact weapons may be carried by department personnel.
- 2) Officers shall not intentionally strike vital areas including head, neck, face, throat, spine, or groin unless deadly force is authorized.
- 3) Officers should reassess the effectiveness of impact weapons strikes as soon as safe and feasible consistent with Department training, and if not effective, move to another appropriate target, another tactic, or another physical force option.

#### I. OC Spray (Capstun)

- 1) Aerosol OC is the only chemical agent to be carried by patrol Officers. OC aerosol canisters shall be issued by the Department. Personnel are responsible to ensure their issued OC is current in date/expiration.

#### J. BolaWrap

- 1) The BolaWrap device is intended to immobilize and control resistive/non-compliant individuals. The BolaWrap is also intended to control violent or potentially violent individuals. The BolaWrap is a hand-held remote restraint device that discharges a bola style kevlar tether to entangle an individual at an optimal range of 10-25 feet. Deployment guidelines are found in Appendix K of the Department Policy Manual.

#### K. Ammunition

- 1) Only that ammunition authorized by the Department shall be used in a primary or secondary sidearm carried under the officer's law enforcement authority on or off-duty.
- 2) Officers are prohibited from modifying any ammunition carried in connection with law enforcement responsibilities. On-duty uniformed members shall carry at least 2 magazines of extra rounds of authorized duty ammunition on their person.
- 3) Each Officer shall be issued an appropriate number of rounds each year.
- 4) Officers who utilize ammunition in the course of their duty shall request replacement ammunition from a Firearms Instructor. If issued ammunition is physically damaged, it shall immediately be replaced as well.
- 5) Officers issued kinetic energy projectiles are prohibited from possessing any lethal shotgun ammunition.

#### L. Storage of Weapons

- 1) The Anacortes Police Department issues a variety of firearms to its employees, including pistols and rifles. The Police Department recognizes that the use of these weapons by unauthorized or untrained individuals constitutes an extreme safety hazard. It is therefore imperative that unauthorized persons not have access to department issued weapons.
- 2) The Police Department has a vested interest in the safe storage of department owned and issued weapons. The Police Department intends to provide for the safe and secure storage of department issued weapons. In addition to the mandatory safe storage of department issued firearms, all employees are encouraged to use safe storage techniques for their personally owned firearms.
- 3) All department issued firearms, including pistols and rifles, and less lethal weapons that are not under the employee's immediate control shall be safely stored so as to prevent unauthorized persons from handling the firearm.
- 4) Safe storage techniques include the appropriate use of gun safes, gun lockers, trigger locks and trigger cables, locked gun cases, vehicle mounted locking devices, and other locked containers. Employees shall use one of these safe storage techniques to safely store department issued firearms.
  - a) A firearm is considered to be under the employee's immediate control when it is in the employee's actual physical

possession and the employee has the ability to prevent unauthorized persons from handling the firearm.

- b) The Police Department shall issue appropriate safe storage devices to all employees who are issued department owned firearms. Employees who are issued safe storage devices shall maintain them in proper working order and shall immediately replace any malfunctioning or non-working safe storage device

### **1.19 WEAPONS PROFICIENCY - REQUIRED**

Only Department members demonstrating proficiency in the use of Department authorized weapons, both lethal and less-than-lethal, both on and off-duty, shall be approved to carry such weapons.

#### **A. Demonstrated proficiency includes:**

- 1) Annual Instruction - In addition to every Officer meeting the minimum Department shooting qualifications, each sworn Officer shall receive instruction on the operation, safety, cleaning, and the proper policies and procedures governing the use of Department approved police firearms;
  - a) All Officers who are required to carry a firearm shall qualify at least annually with their duty sidearm and annually with all other firearms carried.
  - b) All Officers are responsible for attending at least one of the qualification shoots during the course of the year, from the scheduled range days. Officers may be assigned to a particular range day as needed.

#### **B. Achieving minimum qualifying scores on a prescribed course:**

- 1) All commissioned Officers are required to participate in Department firearms qualifications.
- 2) Any Officer who is unable to achieve the minimum required proficiency shall be reported to the Patrol Captain. This Officer shall have 30 days from the last qualification date in which he/she shall qualify.
- 3) No commissioned Officer shall be allowed to carry a Department firearm prior to achieving the minimum proficiency qualification. Minimum proficiency is a condition of employment for members who must carry a firearm in the performance of their duties.

- C. Demonstrated knowledge of the laws concerning the use of authorized weapons;
- D. Demonstrated knowledge of Department policy of use of force, escalating force, and deadly force;
- E. Familiarity with recognized safe-handling procedures for the use of these weapons.

#### **1.19.1 WEAPONS PROFICIENCY – ANNUAL TRAINING**

- A. All commissioned personnel shall be proficient in the use of all lethal and non-lethal weaponry the employee is authorized to use. Participation in weapons training (proficiency and policy) is mandatory for commissioned personnel and non-participation shall be reported to the Chief of Police.
- B. Non-Lethal weapons in-service training shall occur at least biennially, with the exception of officers who are authorized to carry kinetic energy projectiles. Kinetic energy projectile in-service training shall occur annually.
- C. Lethal / Firearm training –Sessions shall be offered for qualification at least three times each calendar year.
- D. Proficiency training shall be conducted and monitored under the direction of an assigned Firearms Instructor.
- E. Firearms training shall include instruction/review of all applicable policies, particularly use-of-force, including deadly force.
- F. These sessions shall include firearms maintenance and sighting, individual coaching, and additional practice opportunities (time permitting).
- G. All weapons training and proficiency testing shall be formally reported in a written training report and evaluation and submitted to the Administrative Captain.
- H. Scoring procedures should include marksmanship and stress factors.
- I. Shotgun and Rifle training shall be a part of firearms training.
- J. Qualification courses for secondary weapons shall be conducted on an at least yearly basis.
- K. Remedial training procedure – Upon determining that an employee is not meeting acceptable standards for firearms proficiency or policy understanding, Weapons Instructors shall provide one-on-one coaching and training to ensure the deficiency is corrected.
- L. Employees who are unable to qualify with an authorized weapon are not permitted to resume official duties. Weapons Instructors shall provide the remedial training necessary to ensure proficiency.

M. All participating personnel shall be subordinate to Firearms Instructor(s) and coaches during weapons training.

N. Procedure

1) The Firearms Instructor shall:

- a) Ensure that the Department armory is secure and shall authorize the removal of any firearm or other items from the armory.
- b) Suggest weapons training standards and methods of attainment, and prepare a lesson plan for approval by the Administrative Captain.
- c) Review firearms and ammunition needs, submitting a comprehensive analysis to the Patrol Captain when appropriate.
- d) Establish responsibilities for range rules for the safety and protection of the participants and others.
- e) Assist in the preparation of a preliminary firearms equipment and training budget.

O. During each firearms training session, the firearms Instructor shall:

- a) Provide adequate training and supervision to participants;
- b) Provide regular weapons training in accordance with the approved firearms training curriculum;
- c) Provide individual instruction and remedial training to participants when necessary or requested.
- d) Ensure compliance with all range safety rules and procedures, and maintain range discipline.
- e) Provide firearms training/proficiency reports to the Administrative Captain.

P. The Patrol Captain, or designee is responsible for ensuring that a constant and complete inventory of all Department owned lethal and non-lethal weapons, firearms equipment, ammunition, and other related equipment is maintained.

**1.19.2 INSTRUCTION PRIOR TO CARRYING WEAPON**

A. All employees authorized to carry weapons shall be issued copies of and be instructed in the policies described in sections 1.13, 1.14, and 1.18 through

1.20; as well as demonstrate their understanding before being authorized to carry a weapon.

- B. The issuance and instruction shall be documented an instructor qualified to give instruction for each specific weapon category.