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# Policy 300 Use of Force

## 300.1 PURPOSE AND SCOPE

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

### 300.1.1 DEFINITIONS

Definitions related to this policy include:

- A. **Compliant** – Cooperative response to lawful commands.
- B. **Passive Resistance** – Noncompliance to lawful authority without physical resistance or mechanical enhancement.
- C. **Active Resistance** – Use of physical effort or mechanical resistance in achieving and/or maintaining noncompliance.
- D. **Assaultive** – Noncompliance perceived as, or resulting in, an actual assault on an individual or officer. The scope and severity of the attack would likely not result in serious bodily injury or death.
- E. **Aggravated Assaultive/Life Threatening** – Noncompliance perceived as, or resulting in, an actual assault on an individual or officer. The scope and severity of the attack would likely result in serious bodily injury or death.
- F. **Control Devices** – Includes TASER, baton, Oleoresin Capsicum (OC), 2-Chlorobenzalmalonitrile (CS), and Mechanical Restraints.
- G. **Control Techniques** – Includes Lateral Neck Restraint (LNR), Personal Impact Weapons, Counter joint, and Take Downs.
- H. **Deadly Force** – Force that creates a substantial likelihood of causing serious bodily injury or death.
- I. **De-escalation** – The use of verbal communication, body language, and/or tactics to defuse a situation.
- J. **Force** – Any effort towards detention or control.
- K. **Imminent** – Impending or about to occur.

## **300.2 POLICY**

The Spokane Police Department is committed to protecting people, their property and their rights. The use of objectively reasonable force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers must also remain mindful that they derive their authority from legal and constitutional principles designed to uphold the safety and dignity of the public, and that the unreasonable use of force undermines the community's trust.

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use objectively reasonable force and to protect themselves and the public requires monitoring, evaluation and a careful balancing of all interests.

### **300.2.1 DUTY TO INTERCEDE/ETHICAL INTERVENTION**

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

## **300.3 USE OF FORCE**

Any force used by an officer must be objectively reasonable based on the totality of the facts and circumstances known to the officer at the time the force is used.

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

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

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods

provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or exceptional technique must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

Officers are not required to retreat or to be exposed to possible physical injury before applying reasonable force.

Officers may only use those control techniques and devices for which they have successfully completed department-approved training. Officers utilizing any control technique or device should consider:

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

### **300.3.1 USE OF FORCE TO EFFECT AN ARREST**

An officer may use force which reasonably appears necessary to effect an arrest if, after notice of the intention to arrest the person, the subject either flees or forcibly resists (RCW 10.31.050).

### **300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

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

- (a) Perception of the known and potential threat considerations to the public, the officer(s) and subject involved.
  - The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
  - Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of officers available vs. subjects).
  - The effects of drugs or alcohol on the subject.
  - Subject's mental state or capacity.
  - Potential for injury to officers, suspects and others.
  - Training and experience of the officer.
  - Proximity of potential weapons or dangerous improvised devices.
  - Prior contacts with the subject or awareness of any propensity for violence.
  - Any other exigent circumstances.

- (b) The level of resistance and/or attempts to flee demonstrated by the subject.
- The risk and reasonably foreseeable consequences of escape.
  - The degree to which the subject has been effectively restrained and the subject's ability to resist despite being restrained.
  - The apparent need for immediate control of the subject or a prompt resolution of the situation.
  - The availability of other options and their possible effectiveness.
  - Time available and split-second decision-making required under the circumstances.
  - Environmental factors.
  - Suspect's response to de-escalation efforts.
- (c) The severity of the crime and/or community caretaking function.

#### **300.4 DEADLY FORCE APPLICATIONS**

Use of deadly force, like any force used by an officer, must be objectively reasonable based on the totality of the facts and circumstances known to the officer at the time the force is used. Use of deadly force is justified in the following circumstances:

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

##### **300.4.1 USE OF A FIREARM TO DISABLE A VEHICLE**

The use of a firearm to disable a vehicle is generally ineffective and is therefore discouraged.

#### **300.5 DOCUMENTING USE OF FORCE**

Unless otherwise provided in policy or directed by a supervisor, all reportable force used by an officer shall be promptly, completely and accurately documented. The officer shall articulate the factors which made the use of force objectively reasonable, based on the Use of Force Policy.

The officer should also document attempts to gain compliance through de-escalation, verbal commands, force options and other tactics. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may

require the completion of additional report forms, as specified in department policy, procedure or law.

### **300.5.1 NOTIFICATION TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application of force resulted in apparent injury to the subject or unconsciousness (with the exception of minor marks on the wrist consistent with being handcuffed and/or minor marks or abrasions to portions of the body consistent with prone handcuffing);
- (b) The subject claims an injury resulted from a use of force, even if no injury is visible (with the exception of minor marks on the wrist consistent with being handcuffed and/or minor marks or abrasions to portions of the body consistent with prone handcuffing);
- (c) All applications of a Lateral Neck Restraint (Level I and Level II) (see Policy 308);
- (d) All applications of a Conducted Energy Weapon (e.g. TASER™) (See Policy 308);
- (e) The intentional discharge of firearms (with the exception of training or recreation) (See Policy 312);
- (f) Use of the Draw and Direct technique with a firearm (does not include the mere unholstering of a handgun or shouldering of a long gun);
- (g) Any deployment of OC by means of spray or by means of physically or mechanically delivered techniques where a person is exposed to the substance (See Policy 308);
- (h) Any deployment of CS by means of a spray or by means of physically or mechanically delivered techniques where a person is exposed to the substance (see Policy 308);
- (i) Any application of an impact weapon whether personal, issued or improvised to a subject (See Policy 308);
- (j) Any canine deployment where a reportable contact has occurred (See Policy 318);and
- (k) When an individual alleges any of the above has occurred.

### **300.6 MEDICAL CONSIDERATION**

Medical assistance shall be provided to any person who requests it, who is rendered unconscious, exhibits signs of physical distress, or who claims an injury (with the exception of minor marks on the wrist consistent with being handcuffed and/or minor marks or abrasions to portions of the body consistent with prone handcuffing or a takedown technique.) Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the subject can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. Any refusal of medical attention shall be fully

documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible. Any subject who has been rendered unconscious by a Lateral Neck Restraint will be examined and/or treated by qualified medical personnel prior to law enforcement transport.

The on-scene supervisor, or if not available, the primary handling officer will make all reasonable attempts to provide information, as time allows, to assist medical care providers. This notification should include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and who appear impervious to pain (sometimes called Excited-Agitated Delirium), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden in-custody death (postmortem diagnosis of death: Excited Delirium). Calls involving these persons should be considered medical emergencies. Law enforcement personnel who reasonably suspect a medical emergency exists should request medical assistance as soon as practicable and have medical personnel stage away if appropriate.

## **300.7 CHAIN OF COMMAND REVIEW OF USE OF FORCE**

### **300.7.1 SUPERVISOR REPORTING**

When a supervisor becomes aware of an incident in which there has been a reported application of force the supervisor shall complete a Use of Force Report. Even in the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still required to complete a Use of Force Report. Use of Force reports are required under the circumstances described in Section 300.5.1 Notification to Supervisors.

### **300.7.2 INVESTIGATION, DOCUMENTATION AND NOTIFICATION**

When completing a Use of Force Report the supervisor shall take the necessary steps to conduct a thorough investigation. The supervisor shall:

- (a) Respond to the scene, when possible;
- (b) Review all documentation of the incident and make every reasonable effort to contact all involved officers;
- (c) Ensure identification of witnesses and other involved parties. When possible conduct civilian interviews of those subjects, including the subject to whom the force was applied ;

- (d) Ensure the collection of any appropriate evidence when applicable;
- (e) Ensure photographs are taken of all injuries and relevant items such as dirt stains on uniforms, tears in clothing, damage to equipment, etc.;
- (f) In the event that the supervisor believes that the incident may give rise to potential civil litigation, the supervisor shall notify the DSO or appropriate command staff member during normal business hours;
- (g) Attach all incident reports, the CAD incident history, Conducted Energy Weapon downloads, and a link to all officer-worn videos in Evidence.com;
- (h) Enter force options used by any officer who used reportable force. List other officers present as witness officers;
- (i) Provide a brief summary of the incident in Blue Team and attach a Use of Force Additional form with all other information;
- (j) Provide a brief comment stating whether the use of force was within policy and any possible training issues. If more detailed analysis is needed, include it in the Use of Force Additional report;
- (k) and forward the Use of Force Report to Internal Affairs Group in Blue Team.

Internal Affairs will attach all photographs and recordings of radio traffic to the report. A member of Internal Affairs will verify that all relevant materials were attached to the case and forward it to the next person in the supervisor's chain of command for review.

### **300.7.3 REFERRAL TO INTERNAL AFFAIRS**

When there is an allegation, complaint, or a supervisor is concerned that a violation may have occurred, the supervisor shall initiate an Internal Affairs Complaint in Blue Team. The supervisor shall forward the Complaint and the Use of Force Report through Blue Team to the Internal Affairs Group and copy each member of the chain of command to include the Chief of Police in the routing.

### **300.7.4 INTERNAL AFFAIRS RESPONSIBILITY – DEADLY FORCE**

Internal Affairs shall complete the Blue Team Use of Force Report for any incident involving deadly force. (See also Policy 310)