
Use of Force

510.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this office is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner. It is the fundamental duty of the Whatcom County Sheriff's Office to preserve and protect human life.

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

510.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.

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

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

Use of force team technique - The use of force team technique ordinarily involves trained staff, who enter the inmate's area in tandem, to achieve immediate control of the inmate.

Necessary – Necessary means that, under the totality of the circumstances, a reasonably effective alternative to the use of force does not exist, and that the amount of force used was a reasonable and proportional response to the threat posed to the deputy and others.

Imminent Threat – Imminent threat 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 deputy or another person.

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

Choke Hold – The intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway.

Neck Restraint – Any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow.

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Tear Gas – means 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, except “tear gas” does not include oleoresin capsicum (OC).

510.2 POLICY

It is the policy of this agency to accomplish the department functions with minimal reliance on the use of force and generally as the last alternative.

510.3 USE OF FORCE

Employees may use force as reasonably appears necessary in the performance of their duties, but excessive force shall not be used. Deputies must use only that amount of force that appears reasonably necessary under the circumstances in order to gain control of the inmate, to protect and ensure the safety of inmates, staff and others, to prevent serious property damage, prevent escape, obtain compliance with facility rules and staff orders and to ensure the institution's security and good order or for other lawful purposes.

The Agency has provided a number of tools, weapons and training on techniques to use when responding to resistance and violent encounters. While various degrees of force exist, each deputy is expected to use only that degree of force that is reasonable under the circumstances to successfully accomplish the legitimate and lawful purpose in accordance with this policy.

It is recognized, however, that circumstances may arise in which staff may reasonably believe it would be impractical or ineffective to use any of the standard tools, weapons or methods provided by the Agency. Staff members may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate penological purpose.

In any review of an incident to determine whether a particular use of force conforms to this policy, the Agency will evaluate the apparent need for an application of force, the relationship between that need and the amount of force used, the threat reasonably perceived, any efforts made to temper the severity of a forceful response and the extent of any injury to the person.

Prior to resorting to the use of force, staff should, when practicable, attempt verbal persuasion, orders or other tactics to avoid or mitigate the need for forceful action.

Force shall never be used as punishment or retaliation.

Medical checks will be offered to all persons who have been subjected to force as soon as practicable, regardless of apparent injury. If the person refuses, such refusal shall be documented and witnessed by another member.

Nothing in this policy is intended to require that force options be used in a particular order. However, the force option used must be objectively reasonable under the circumstances to accomplish a lawful objective.

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510.3.1 FACTORS TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) Immediacy and severity of the threat to deputies or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/inmate factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. inmates).
- (d) Cognitive impairment as a result of suspected drug or alcohol use.
- (e) Signs of mental, behavioral, or physical impairments or disabilities.
- (f) The individual's ability to understand and comply with deputy commands, including lack of proficiency with the English language.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) The seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the deputy.
- (l) Potential for injury to deputies, inmates, and others.
- (m) Whether the individual appears to be resisting or is attacking the deputy.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.
- (s) Age of the subject

510.3.2 DUTY TO INTERVENE AND REPORT

Any deputy present and observing another staff member using force that is clearly not within this policy shall, intervene to prevent or end the use of excessive force, when in a position to do so.

Regardless of whether an intercession occurred, a deputy is required to report these observations to a supervisor as soon as feasible.

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510.3.3 PERSPECTIVE

When determining whether to intervene, each deputy should take into account the totality of the circumstances and the possibility that other staff members may have additional information regarding the threat posed by the subject.

510.4 USE OF OTHER WEAPONS, TOOLS AND CHEMICAL AGENTS

510.4.1 NOISE/FLASH DISTRACTION DEVICES

Noise/flash distraction devices, sting grenades, chemical grenades and similar devices shall be used only at the direction of a supervisor and only by staff who have been trained in and are qualified for the use of the devices.

510.4.2 ELECTRONIC CONTROL DEVICES

The use of Conducted Energy Weapon (CEW)s shall be in accordance with the agency Conducted Energy Device Policy.

Other electronic control devices, such as stun cuffs and stun belts, shall only be used when it appears reasonably necessary to control an inmate who poses a serious threat to safety or security, and only with the approval of a supervisor. These devices shall not be used to punish or torment. Only trained personnel shall deploy and use these devices.

Prior judicial approval shall be obtained for any use of stun restraint devices in court holding facilities if the device will be worn in the courtroom or will be visible to a jury.

510.4.3 OC SPRAY

Oleoresin capsicum (OC) spray should not be used in the medical unit or other designated areas where inmates are assigned to respiratory isolation or on any inmate who is under control with or without restraints.

Agency-approved OC spray or foam may be possessed and used only by staff members who have received training in its use.

Individuals who have been affected by the use of OC Spray shall be promptly provided with the proper solution to decontaminate the affected areas. Those individuals who complain of severe effects shall be examined by a qualified health care professional.

If an inmate refuses to decontaminate, such a refusal shall be documented and witnessed by another member. If an inmate has been exposed in a cell and not removed from the cell where the exposure occurred, in-cell decontamination shall be afforded to the inmate, including:

- (a) Custody staff advising the inmate how to decontaminate in the cell.
- (b) Clean clothing if the inmate's clothing was contaminated.
- (c) Monitoring of the in-cell inmate at least every 15 minutes, for a period of not less than 45 minutes, by custody staff.

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510.4.4 PEPPER PROJECTILE AGENTS

Pepper projectile systems are plastic spheres filled with a derivative of OC powder. A compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact, releasing the OC powder. Although classified as a non-lethal weapon, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel deploying the pepper projectile system should not intentionally target those areas except when the deputy reasonably believes the inmate may cause serious bodily injury or death to the deputy or others.

Deputies encountering a situation that requires the use of the pepper projectile system shall notify a supervisor as soon as practicable. The supervisor shall respond to all such deployments. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented and, if reasonably practicable, recorded on video. This includes situations where the launcher was directed toward the inmate, regardless of whether the launcher was used. Only non-incident deployments are exempt from the reporting requirement (e.g., training, product demonstrations).

510.4.5 IMPACT WEAPONS

The need to immediately incapacitate the inmate must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted with an impact weapon, except when the deputy reasonably believes the inmate may cause serious bodily injury or death to the deputy or others.

510.4.6 KINETIC ENERGY PROJECTILES

Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used by a trained and qualified member in an attempt to de-escalate a potentially deadly situation.

510.4.7 TEAR GAS

Tear gas shall only be deployed by trained tactical team members when necessary to alleviate a present risk of serious harm posed by a riot, barricaded subject, or hostage situation.

Prior to the deployment of tear gas, a supervisor or tactical team leader must determine that the circumstances warrant its use, and that available and appropriate alternatives to its use have been exhausted.

Before tear gas is deployed a warning shall be given and sufficient time will be provided for the subject(s) to comply with directives.

510.4.8 CHOKE HOLDS AND NECK RESTRAINTS

The use of choke holds or neck restraints is prohibited.

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510.5 IMMEDIATE AND CALCULATED USE OF FORCE

An immediate use of force occurs when force is used to respond without delay to a situation or circumstance that constitutes an imminent threat to security or safety. For example, the immediate or unplanned use of force by staff to stop an inmate from inflicting life-threatening injuries to him/herself or to stop an assault on any other person, including other inmates.

The destruction of government property may require the immediate use of force by staff in some circumstances. A verbal warning should be given before an immediate use of force unless the circumstances preclude it.

If there is no need for immediate action, staff should attempt to resolve the situation through voluntary compliance or, if it reasonably appears necessary, the calculated use of force. A calculated use of force is called for when an inmate's presence or conduct poses a threat to safety or security and the inmate is located in an area that can be controlled or isolated, or when time and circumstances permit advance planning, staffing and organization.

The assistance of available non-custodial staff (e.g., psychologists, counselors) should be considered when attempting to resolve a situation without confrontation.

A supervisor shall be present in any situation involving the calculated use of force.

510.5.1 CONFRONTATION AVOIDANCE PROCEDURES

Prior to any calculated use of force, the supervisor shall confer with the appropriate persons to gather pertinent information about the inmate and the immediate situation. Based on the supervisor's assessment of the available information, he/she should direct staff to attempt to obtain the inmate's voluntary cooperation and consider other available options before determining whether force is necessary.

The supervisor should consider including the following persons and resources in the process:

- (a) Mental health specialist
- (b) Qualified health care professional
- (c) Chaplain
- (d) Agency Records and Assets
- (e) Any other relevant resources

Regardless of whether discussions with any of the above resources are accomplished by telephone or in person, the purpose is to gather information to assist in developing a plan of action, such as the inmate's medical/mental history (e.g., hypoglycemia, diabetes), any recent incident reports or situations that may be contributing to the inmate's present condition (e.g., pending criminal prosecution or sentencing, recent death of a loved one, divorce). The assessment should include discussions with staff members who are familiar with the inmate's background or present status. This may provide insight into the cause of the inmate's immediate agitation. It also may identify other staff members who have a rapport with the inmate and could possibly resolve the incident peacefully, without the use of force.

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If force is determined necessary and other means of gaining control of an inmate are deemed inappropriate or ineffective, then the use of force team technique should be used to control the inmate and to apply restraints, if required.

Consideration should also be given to preventing exposure to communicable diseases in calculated use of force situations and to ensuring that medical services personnel are available.

510.6 REPORTING THE USE OF FORCE

Every staff use of force is an incident that shall be entered into the appropriate records management system. Any staff member who uses force and any staff directly observing the incident shall make a verbal report to a supervisor as soon as practicable and shall submit the appropriate documentation prior to going off-duty, unless directed otherwise by a supervisor.

The documentation will reflect the actions and responses of each staff member participating in the incident, as witnessed by the reporting staff member.

The report should include:

- (a) A clear, detailed description of the incident, including any application of weapons or restraints.
- (b) The identity of all involved in the incident (e.g., inmates, staff and others).
- (c) The specific reasons for the application of force.
- (d) The threat as perceived by the staff involved.
- (e) Efforts made to temper the severity of a forceful response, and if there were none, the reasons why.
- (f) Description of any injuries to anyone involved in the incident, including the result of any medical checks that show the presence or absence of injury.

The supervisor responsible for gathering the reports may allow a reasonable delay in preparation of a report in consideration of immediate psychological and/or physical condition of the involved deputy.

It is recognized that members of this office have the same constitutional rights against self-incrimination as any other individual. Where the use of force by a deputy results in death, substantial bodily harm, or great bodily harm, no member shall be disciplined for failing to provide a statement or report required above unless such member is legally compelled to provide such statement.

510.7 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported use of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved deputies. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

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- (b) In cases involving the use of deadly force or when serious injury has resulted, obtain an oral statement from the employee. The statement should be restricted to concerns of anything that may present an ongoing threat to the security of the facility or public safety.
- (c) Take appropriate measures to address public safety concerns, document the essence of the oral statements in writing.
- (d) Ensure that the appropriate investigation authority is notified, if needed.
- (e) Ensure that any parties involved in a use of force situation are afforded medical treatment as appropriate.
- (f) Once any initial medical assessment or first aid has been completed, ensure that photographs have been taken of any areas involving visible injury or complaint of pain as well as overall photographs of uninjured areas. These photographs should be retained until all potential civil litigation has expired.
- (i) Identify any witnesses not already included in related reports.
- (j) Review and approve all related reports.

If the supervisor determines that any application of force was not within policy, he/she should notify the Chief Corrections Deputy via the chain of command.

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

If an inmate has made an allegation of an unnecessary or excessive use of force, the supervisor should notify the Chief Corrections Deputy via the chain of command.

510.8 USE OF DEADLY FORCE

The use of deadly force is authorized only when necessarily used to protect the deputy or another person from an imminent threat of serious bodily injury or death, where:

- (a) It is objectively reasonable to believe that the person upon which force is to be used has the apparent ability, opportunity, and intent to immediately cause death or serious bodily injury, and
- (b) When possible, available and appropriate less lethal alternatives have been considered, and
- (c) The amount of force used is a reasonable and proportional response to the threat posed.

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510.8.1 MOVING VEHICLES

Deputies shall not fire a weapon at a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon. Nothing in this section shall be construed to prohibit any deputy from using a firearm to stop a suspect from using a vehicle as a deadly weapon where no other reasonable means to avoid potential serious harm are immediately available to the officer.

510.8.2 USE OF DEADLY FORCE REPORTING

An employee who intentionally or accidentally uses deadly force, whether on- or off-duty, shall ensure that a supervisor is notified of the incident without delay.

The supervisor shall ensure that the chain of command is notified and all necessary health and safety, medical, and security measures are initiated.

The supervisor shall promptly notify the Chief Corrections Deputy of any incident involving a staff member employing deadly force, or any incident where a death or serious bodily injury may have been caused by a staff member.

510.8.3 NOTIFICATION TO INDIAN AFFAIRS

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

510.8.4 NOTIFICATION TO CRIMINAL JUSTICE TRAINING COMMISSION (CJTC)

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

510.9 COMMAND STAFF RESPONSIBILITY

The Chief Corrections Deputy, or their designee shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

510.10 TRAINING

The Chief Corrections Deputy shall work with the Training Sergeant to ensure legal and facility training mandates are met. This training should include the following:

- (a) Defensive Tactics
- (b) Use of force to control inmates
- (c) Weapons training
- (d) Confrontation avoidance procedures:
 1. Communication techniques
 2. Cultural diversity
 3. Dealing with the mentally ill

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4. Application of restraints
 5. Reporting procedures
- (e) Forced cell extraction techniques
 - (f) Use of force team techniques
 - (g) General restraint training (soft and hard restraints)

510.10.1 TRAINING FOR CONTROL DEVICES

The Training Sergeant shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the deputy's training file.
- (c) Deputies who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be restricted from carrying the control device until demonstrating proficiency. If a deputy cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the deputy may be subject to discipline.

510.10.2 PERIODIC TRAINING

Supervisors should conduct and document regular periodic briefings concerning this policy and the storage and use of weapons and control devices.