

General Order 1.4

USE OF FORCE Revised 12/18

Last Revised: 02-01-2017

SUBJECT: USE OF FORCE

This order consists of the following numbered sections:

- 1.4.1 Use of Force Policy
- 1.4.2 Deadly Force
- 1.4.3 Other Force Tools
- 1.4.4 Use of Force in the Jail
- 1.4.5 Unauthorized Practices
- 1.4.6 Rendering Aid after Use of Force
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- 1.4.8 Supervisor Checklists
- 1.4.9 Summary Reporting and Retention
- 1.4.10 Review of Deadly Force
- 1.4.11 Removal from Duty (traumatic incidents)

Use of Force Definitions

I. Definitions

- A. "Force" is the use of power to affect an individual's behavior including defensive tactics, other force tools, and lethal force. The application of force shall be in direct proportion to an appropriate objective. The term does not include escorting or handcuffing a person with no or minimal resistance.
- B. "Progressive application of force" is the escalation of the use of force according to a pattern that correlates subject action to officer response, based on a combination of logic and law.
- C. "Personal weapons" are body parts used to gain or regain control, or to impede non-compliance or resistance.
- D. "Imminent threat" is a risk of harm that is perceived as menacing, impending, or proximate in nature by a reasonable officer. IE: it is about to occur.
- E. "Immediate threat" is a risk of harm that is occurring or will be accomplished without delay. IE: it is taking place right now.
- F. The "reasonable officer standard" is a standard of professional conduct based on the philosophy that another officer, with like or similar training and experience, facing like or similar circumstances, would act in the same way or use similar judgment.
- G. "Compliant" behavior is behavior by a subject that is cooperative and responsive to lawful commands.
- H. "Actively resistant" behavior is behavior by a subject that is non-compliant and that involves physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, or verbally communicating an intention to avoid being taken into or retained in custody.
- I. "Actively Aggressive" behavior is behavior by a subject that is non-compliant and that involves a threat or step toward the act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

- J. "Other force tools" are specialty devices designed to be deployed to render subjects non-threatening with a low probability of serious physical injury or death.
1. "Oleoresin Capsicum" also referred to as "OC" is a non-lethal aerosol spray made with a pepper derivative used to impair a subject.
 2. "Kinetic energy impact munitions" are flexible and non-flexible impact projectiles intended to incapacitate a subject with minimal potential for causing death or serious physical injury. There are a number of projectiles manufactured that qualify as kinetic energy impact projectiles.
 3. "Large bore launchers" are projectile launchers used to deliver a variety of less lethal projectiles. The Department-approved 12 gauge shotgun is also utilized to deliver less lethal munitions.
 4. A "pepper-ball delivery system" is a multi-shot delivery system for oleoresin capsicum that utilizes .68 caliber frangible projectiles.
 5. A "conducted energy weapon" (CEW) is a weapon that controls and overrides the body's central nervous system by using propelled wires to conduct electrical energy to a subject.
- K. "Defensive tactics" is the use of physical force including the use of personal weapons to kick, punch, strike, or affect pain compliance. Defensive tactics does not include the use of other force tools.
- L. "Deadly force" is the application of force, by any means, that is reasonably likely to cause death or serious physical injury. Deadly force includes the use of firearms; or impact weapons and kinetic energy impact munitions intentionally aimed at the neck and head. Deadly force does not include application of force not reasonably likely to cause death or serious physical injury that unexpectedly results in such an outcome.
- M. "Serious physical injury" (as described in *Tennessee v. Garner*) is an injury that involves substantial risk of death, major permanent disfigurement, or protracted loss/impairment of the function of any body part or organ.
- N. "Qualified medical assistance" includes members of any county or municipal fire service, ambulance service or health care facility who are employed and trained to administer first aid treatment.
- O. "Target areas," in the context of this procedure, are areas of the body. Target areas are designated as primary, secondary or tertiary, based upon the potential of the area for sustaining injurious or lethal contact from an impact weapon or a kinetic energy impact munition. Primary target areas present minimal risk for serious injury or death. Tertiary target areas present the highest risk for serious injury or death.
- P. "Primary targets" are areas of the body that present minimal risk for serious injury or death.
- Q. "Secondary targets" are areas of the body that have an increased but limited potential for serious injury or death.
- R. "Tertiary targets" are areas of the body that present the highest risk for serious injury or death.

1.4.1 Use of Force Policy

- I. Olympia Police Department personnel may use force when necessary, to gain compliance with lawful directions, accomplish arrests, overcome resistance to arrest, protect persons from serious physical injury or death (RCW 9A.16.020), or to restore or maintain discipline in the jail. Staff will use only the amount of force reasonably necessary to control or otherwise subdue individuals.
- II. Protection of life is more important than apprehension of criminal offenders or the protection of property. The responsibility to protect life includes an employee's own life. The department recognizes that the safety of innocent citizens and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.
- III. Use of force shall be consistent with Department training and follow the reasonable officer standard.

IV. Progressive application of force and the reasonable officer standard should be considered when making use of force decision. Use of force decisions should consider:

- A. The severity of the crime at hand
- B. Whether there is an immediate threat and amount of time available to make a decision
- C. Known offender history
- D. The levels of suspect resistance, suspect's behavioral cues, the number of officers and/or offenders present
- E. The availability of other options

V. When safe under the totality of circumstances and time and circumstances permit, officers shall use advisements, warnings, verbal persuasion, and other tactics in order to reduce the need to use force. Officers should consider other factors including, but not limited to:

- A. Medical conditions
- B. Mental impairment
- C. Developmental disability
- D. Physical limitation
- E. Language barrier
- F. Drug interaction
- G. Behavioral crisis

VI. Olympia Police Department personnel who are trained in the use of other force tools may use them to de-escalate potentially violent confrontations and provide additional alternatives to the use of deadly force. Other force tools are an important component of this agency's less lethal force equipment. Officers are authorized to employ other force tools in accordance with provisions of this policy and this department's overall policy on use of force.

VII. The application of force should be adjusted appropriately as situations stabilize, control is gained and threat subsides.

VIII. Confrontations often occur in environments that are unpredictable, uncertain, tense and rapidly-evolving. Tools and tactics that are outside the use of force policy and/or Department training may need to be employed. Such departure from policy is permitted, as long as the tools and tactics employed meet the standard of reasonableness described in 1.4.1 (IV).

IX. Every officer is required by virtue of his/her position as a peace officer to intervene in any situation where he/she reasonably believes another officer is making an unjustifiable arrest, using excessive force or committing any Constitutional violation. When a reasonable opportunity exists for doing so, officers shall intervene in such instances and prevent harm from occurring. The required intervention may take the form of one or both of the following actions: 1) strongly cautioning the other officer(s), or 2) physically restraining the other officer(s), and immediately reporting the incident to the on-duty supervisor without delay. [see 26.1.1(III)Q]

X. In certain circumstances, police vehicles can be used in a manner which constitutes an application of force. [see 4.1]

XI. In certain circumstances, police service dogs can be used in a manner which constitutes an application of force. [see 47.1]

1.4.2 Deadly force

I. Deadly force may be employed when necessary to protect the officer or others from what he/she reasonably believes is a threat of death or serious physical injury.

II. When considering whether to use deadly force to apprehend a person for the commission of a crime, an officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officer or a threat of serious physical harm to others. Among the applicable circumstances are the following:

A. When a suspect threatens a police officer or another person with a weapon or displays a weapon in a manner that could reasonably be considered threatening, and when the involved officer reasonably believes the suspect to be presently able to do him/her or another person serious physical harm; or

B. When there is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm to a person.

C. Under these circumstances, if feasible, some warning should be given.

III. When deadly force is used, employees present at the scene will determine if any person or property incurred injury or damage, request necessary qualified emergency medical assistance, request a supervisor to the scene, and remain at the scene if uninjured until receiving direction from a supervisor.

IV. When an employee uses deadly force, the employee is not required to discuss the incident with anyone other than his/her immediate supervisor and an assigned investigator. Upon arrival at a scene where use of deadly force has taken place, employees will provide information to representatives of the Department needed to secure the scene, identify witnesses, and follow-up and apprehend any perpetrators of the crime who may be at large or other exigent circumstances. See Directive OP16-001, Public Safety Statement Procedure.

V. When deadly force is used, the supervisor will respond immediately, assure the scene is secured, and provide notification to the Detective Lieutenant and Chain of Command. The supervisor shall maintain custody of the weapon by designating a second officer to assist in maintaining the chain of custody until such time as the Officer-Involved Critical Incident Team assumes responsibility for the investigation.

VI. Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The Chief of Police may exercise discretion and choose not to place an employee in an administrative assignment in any case.

1.4.3 Other Force Tools Revised 12/18

Revised 12-21-18

I. Olympia Police Department commissioned staff are only authorized to use other force tools and munitions approved by the Chief. Corrections Officers are only authorized to carry the CEW, OC spray, and OC fogger.

II. Officers should make decisions to use less lethal weaponry with the potential for injury in mind. Less lethal projectiles are delivered to subject target areas based on circumstances and established safety priorities as defined in section 1.4.1.II.

III. Department-approved less lethal munitions are appropriate for deployment when circumstances allow time for effective deployment.

IV. Corrections Officers and Patrol Officers assigned as uniformed first responders will carry two less lethal tools when actively engaged in performance of duties.

V. Department approved other force tools include:

A. Kinetic Energy Impact Munitions:

1. Kinetic Energy Impact Munitions are approved by the Department and are to be fired from 12-gauge shotguns or large bore launchers.
2. When firing Kinetic Energy Impact Munitions, the head and neck should not be intentionally targeted unless deadly force is justified.
3. Large bore launchers may be deployed when authorized to do so by the shift supervisor.

B. Oleoresin Capsicum (OC)

1. The Department authorizes the use of oleoresin capsicum in spray, foam, fog, and projectile form.
2. When deploying OC in the projectile form from a compressed gas launcher, the operator must recognize the potential risk of injury to the subject, and should avoid intentionally targeting the head, neck, spine, and groin.

C. Crowd Management Munitions:

1. The Training Office will maintain the list of Crowd Management Munitions approved by the Chief.
2. Commissioned staff may deploy approved pyrotechnic and irritant munitions only in an outdoor environment, in accordance with training, and when approved by the shift supervisor.

D. Impact Weapons:

1. Commissioned staff may use impact weapons to include the expandable baton and wooden baton when reasonable and necessary in accordance with training.
2. Commissioned staff should not intentionally target the head, neck, or spine when using impact weapons unless deadly force is justified.
3. In some circumstances a Department issued flashlight may be used as an impact weapon.

E. Conductive Energy Weapons (CEW):

1. CEWs should only be used against subjects who are exhibiting actively resistant or actively aggressive behavior that creates an immediate threat of harm to themselves or others. Officers may use the probe mode or drive stun mode method of deployment. Each cycle of the device is a use of force; any subsequent application should be independently justifiable and considered against other force options.
2. Unless it would endanger the safety of an officer or another person, Officers should announce the intended use of the CEW to give the individual a chance to voluntarily comply and provide other officers and individuals with a warning.
3. Officers will not intentionally aim for the head, neck, chest, or groin.
4. The CEW should not be used to apprehend fleeing subjects unless the subject poses an imminent threat to public safety.
5. The CEW is further restricted under the following circumstances unless the person is armed with a dangerous weapon and is an immediate threat of harm to themselves or others, or the person cannot be safely controlled with other available options:
 - a) Females known to be or are obviously pregnant.
 - b) Individuals who are obviously elderly or young children obviously less than 12 years of age.
 - c) Individuals known to be or are obviously medically fragile.

- d) Individuals who have been recently sprayed with alcohol-based OC spray or are in close proximity to or contaminated with flammable liquid or gasses.
 - e) For crowd control purposes.
 - f) Restrained subjects unless resistance poses an immediate threat to the safety of the Officer or others.
 - g) Individuals whose position or activity significantly increases the person risk of sustaining serious physical injury (eg: falls from above standing height operating vehicles in or near a pool or body of water).
6. After a CEW deployment:
- a) Officers will remove CEW probes if the removal can be done safely in accordance with CEW training. Officers will arrange for removal of the probes by trained medical personnel at a hospital or medical clinic if probes are embedded in soft tissue areas such as the eyes, neck, genitals, face, or female breasts.
 - b) Officers shall place probes into a container appropriate for bio-hazard sharps.
 - c) A supervisor will download the device information and the deploying Officer will attach the report to the Use of Force Checklist.

1.4.4 Use of Force in the Jail

I. Olympia Police Department staff will never use force as a means of punishment. Staff will evaluate the need for force when determining the amount of force to be used. Staff will develop a plan and summon additional assistance prior to the use of force when the situation allows.

II. Corrections Officers may use the restraint chair to prevent an inmate from injuring themselves or others, when less restrictive alternatives would be ineffective. Use of the restraint chair is considered a use of force. Staff will ensure inmates in the restraint chair are segregated from other inmates. Staff will ensure the inmate is released from the restraint chair as soon as possible, or as soon as the risk to themselves or others no longer exists. Staff will notify a Jail Sergeant if the inmate needs to stay in the restraint chair for longer than two hours.

A. Corrections Officers shall use a Restraint Chair Log and make a log entry every 15 minutes when an inmate is placed in the restraint chair. Staff will directly observe the inmate every 15 minutes to ensure the restraints are properly applied and ensure the safety and well-being of the inmate. The Restraint Chair Log will be forwarded with the incident report and Supervisor Check List.

B. Corrections Officers will consider feasibility of removing one arm from restraints to provide water and food if the inmate's behavior requires restraint for longer than 4 hours. The Jail Sergeant must approve use of the restraint chair for longer than for hours and shall consider medical or mental health assessments when an inmate is in the restraint chair for longer than four hours.

C. Corrections Officers shall inspect and clean the restraint chair after each use.

III. Firearms, knives, batons, and kinetic impact energy impact munitions are not allowed in the jail except in extreme circumstances, as defined in General Order 1.4.1.

VII. With the exception of OC and the CEW, employees are not allowed to carry other force tools in the Jail.

1.4.5 Unauthorized Practices

I. Unauthorized weapons and force tools shall not be carried or used by Department employees in the course of performing their duties. The following practices and tools are unauthorized, except in an extreme circumstance, as described in 1.4.1(VIII):

A. Discharging a firearm when there is substantial danger to innocent bystanders.

- B. Discharging a firearm at or from a moving vehicle.
- C. Discharging a firearm as a warning.
- D. Use of carotid restraint holds and/or a Lateral Vascular Neck Restraint hold.
- E. Brass knuckles, sap, or sap gloves.

1.4.6 Rendering Aid After Use of Force

Qualified medical assistance is to be summoned after force is used, if:

- A. A person has sustained an obvious injury
- B. A person complains of injury;
- C. An employee or supervisor requests that medical treatment be provided.
- D. A person who receives a repeated or prolonged exposure to the CEW (three consecutive applications or a one-time exposure of 15 seconds or more).

Hospital transport and clearance is required for:

- A. A person who is struck with a kinetic energy munition.
- B. A person who is bitten by a police service dog.
- C. CEW probes embedded in soft tissue areas such as the eyes, neck, genitals, face, or female breasts.

When a person has been directly exposed to OC, staff will take steps to decontaminate the exposed individual as soon as possible after the event in accordance with training.

Following Use of Force incidents, Officers will monitor subjects for symptoms of excited delirium, including respiratory problems, loss of consciousness, excessive body heat, or profuse sweating and call for qualified medical assistance if symptoms are observed.

1.4.7 Use of Force Reporting

I. When force is applied, officers must be able to articulate how that force was reasonable and how it conformed to the law; officers will document use of force.

II. Employees shall report uses of force to a supervisor as soon as practical in the following circumstances:

- A. Whenever an employee discharges a firearm or points a firearm at a person.
- B. Whenever an employee deploys other force tools.
- C. Whenever an employee uses defensive tactics or takes a subject to the ground.
- D. Whenever a suspect, as a result of an application of force:
 - 1. Incurs an obvious injury or complains of injury; or
 - 2. Requires or requests medical treatment.
- E. Whenever a police service dog bites a person.

III. When a subject is detained in handcuffs and later released without arrest or referral to the Prosecutor for charging, the employee will document the event in an Incident Report or in a Field Incident Report.

1.4.8 Use of Force – Supervisor’s Report

- I. A supervisor creates an entry into the RMS Use of Force module in any of the following circumstances:
 - A. Whenever an employee reports a use of force, as described in 1.4.7 (II)
 - B. Whenever, in the opinion of a supervisor, an incident occurs that has significant potential for a claim or litigation against the City.
 - C. Whenever an employee is involved in a vehicular pursuit.
- II. Use of Force reports are completed by the responsible supervisor as soon as possible after the incident. The Supervisor shall review the incident and determine if the use of force was reasonable, necessary, and within policy, and if any follow-up action is necessary. The review shall include contributing factors and actions before and after the use of force incident.
 - A. Use of Force review:
 1. Each patrol Use of Force report is forwarded to the Team Lieutenant.
 2. Each corrections Use of Force report will be forwarded to the Jail Manager.
 3. Each manager will review the incident and determine if the use of force was reasonable, necessary, and within policy, and if any follow-up action is necessary.
 4. The review shall include contributing factors and actions before and after the use of force incident.
 5. Each Use of Force report will be reviewed by the defensive tactics instructor designated by the Chief. Following reviews, the Use of Force reports are maintained in the RMS system, with oversight from the Professional Standards Lieutenant.

1.4.9 Summary Reporting and Retention

- I. The Professional Standards Lieutenant will produce a report for the first three quarters of the calendar year, summarizing the Use of Force report activity for the quarter. The Professional Standards Lieutenant will produce an annual report in the fourth quarter of each calendar year, summarizing all Use of Force report activity for the year.
- II. Command Staff will review the summary reports to determine if there are patterns or trends that indicate training, supervision, or policy needs.

1.4.10 Review of Deadly Force

- I. The Olympia Police Department will objectively evaluate the use of deadly force and/or any use of force that results in death or serious injury by its members to ensure that the use of force was within department policy and was consistent with department training standards.
- II. To fully evaluate a use of force involving deadly force, a Review Board will be established.
- III. Review Board – Composition
 - A. The Deputy Chief or his/her designee will select five Use of Force Review Board members:
 - B. Command representative
 - C. Training Sergeant
 - D. A member of the community
 - E. An officer
 1. The officer being evaluated will submit three names to the Deputy Chief in order of preference.

2. The Deputy Chief will choose one of the three officers to sit on the Review Board.
3. The Deputy Chief will provide an explanation to the officer under review if his/her choice is not consistent with the officer's order of preference.

F. Department instructor of different rank of the involved employee, for the type of weapon, device or technique used

G. The senior ranking command representative will serve as chairperson.

H. Each role is not required to be staffed independently of the others. For example a sergeant could also be a use of force instructor.

IV. Review Board - Use

A. A Use of Force Review Board will be convened when the use of force is likely to, or results in, very serious injury or death of another.

B. The Chief of Police may request the Use of Force Review Board to investigate and review the circumstances surrounding any use of force incident.

C. The Deputy Chief or his/her designee will convene the Use of Force Review Board as necessary. It will be the responsibility of the on duty supervisor of the involved employee to notify his/her supervisor of any incidents requiring board review.

V. Review Board Responsibilities

A. The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

B. The board members may request further investigation, request reports be submitted for the board's review, and request the involved employee or witnesses to testify. The involved employee will be notified of the meeting of the board and may choose to have a union and/or legal representative be present through all phases of the review process.

C. The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, and/or a decision not to file criminal charges or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

D. The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered, but unknown to the officer at the time of the use of force being reviewed shall neither justify nor call into question an officer's decision regarding the use of force.

E. Any questioning of the involved employee conducted by the board will be in accordance with department policies, current labor agreements, and any applicable state or federal law.

F. The board does NOT have the authority to recommend discipline.

VI. Review Board Findings

A. The board shall make one of the following recommended findings:

1. The employee's actions were within department policy.
2. The employee's actions were in violation of department policy.

- B. A recommended finding requires a majority vote of the board.
- C. The board may also recommend additional investigation or reviews, training reviews to consider whether training should be developed or revised, and/or review of policies.
- D. The board chairperson will submit a written recommendation to the Chief of Police that includes the recommended finding, how and why the board reached the recommended finding, and any training and/or policy considerations the board feels should be reviewed.
- E. The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy, and will determine whether any additional actions, investigations or reviews are appropriate.
- F. At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

1.4.11 Removal from Duty (Traumatic Incidents) Revised 10/18

- I. When death results from the use of deadly force or any critical incident, the involved employee shall be placed immediately on administrative leave by the shift supervisor.
- II. When serious physical injury results from the use of deadly force or any critical incident, the involved employee may be placed on administrative leave by the shift supervisor.
- III. When an employee has been placed on administrative leave pursuant to 1.4.10(I or II), the Chief of Police will determine if:
 - A. The employee should report to full duty on his/her regular assignment;
 - B. The employee needs additional recuperation time;
 - C. Modifications to the employee's regular duties should be considered in order to facilitate the employee's timely return to full productivity.
- IV. When an employee is involved in a use of force incident that results in death or serious physical injury, the Department shall make psychological assistance available to the employee and his/her co-workers. This assistance may be through the City Employee Assistance Program, the Department psychologist or the employees' health care provider, at the employees' choice. In a circumstance where a police officer or employee is killed in the line of duty, Department procedures regarding such an event are employed [see General Order 22.2.10 and the Line of Duty Death Handbook].