

Lakewood Police Department

Use of Force Policy

1.3 FORCE RESPONSE BY OFFICERS

PHILOSOPHY: The Lakewood Police Department strives to deliver police services as efficiently and unobtrusively as possible. Police Department members attempt to obtain voluntary compliance if the situation permits, recognizing that a subject's decisions cannot be controlled. It is recognized that officers are expected to make split-second decisions and that the amount of time available to evaluate and respond to changing circumstances may impact an officer's decision. While various degrees of force exist, each officer is expected to use only that degree of force reasonable under the circumstances perceived by the officer at the time of the event to successfully accomplish the legitimate law enforcement purpose and bring the incident under control.

1.3.1 Force Response

Principle: Authorization by Law

- A. [RCW 9A.16.020](#): Authorizes the use of force by officers and private citizens and states that, "The use, attempt, or offer to use force upon or toward the person of another is not unlawful in the following cases":

1. Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting the officer and acting under the officer's direction.

The law has not been reproduced in its entirety and all members of the Lakewood Police Department should familiarize themselves with this law.

- B. [RCW 10.31.050](#). "If after notice of the intention to arrest the defendant, he either flees or forcibly resists, the officer may use all necessary means to affect the arrest."
- C. *Tennessee v. Garner*, 471 U.S. 1 (1985): This Supreme Court decision states that apprehension by use of deadly force is a seizure and must meet Fourth Amendment reasonableness requirements. See Standard 1.3.2 in this Chapter.
- D. *Graham v. Connor*, 490 U.S. 386 (1989): The Supreme Court explained what standard courts should apply to determine if the use of force was reasonable.

Definitions: The below listed definitions will apply to Standard 1.3.

- A. Force: Any action taken by a Department Member to control a situation or the behavior of others.
- B. Deadly Force: [RCW 9A.16.010\(2\)](#) "Deadly force" means the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury.
- C. Necessary: [RCW 9A.16.010\(1\)](#) "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.
- D. Reasonable Belief: Facts, circumstances or knowledge presented to the officer are sufficient to justify a thought or feeling they or another person was in danger at the time the force was used.
- E. Great Bodily Harm: As described in [RCW 9A.04.110](#) great bodily harm is bodily injury that creates a probability of death or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ.

Practice:

- A. Force Factors: When determining whether or not to apply any level of force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. These factors may include, but are not limited to:
 - 1. The conduct of the individual being confronted (as reasonably perceived by the officer at the time) including whether the suspect is attempting to evade arrest by flight or whether the suspect is actively resisting arrest.
 - 2. Officer / subject factors (age, size, relative strength, skill level, injury/exhaustion, and number of officers vs. subjects).
 - 3. Influence of drugs/alcohol and/or the suspect's mental or psychiatric history known by the officer at the time of the incident.
 - 4. Proximity of weapons.
 - 5. Availability of other options (what resources are reasonably available to the officer under the circumstances).
 - 6. Seriousness of the suspected offense or reason for contact with the individual.
 - 7. Training and experience of the officer.
 - 8. Potential for injury to citizens, officers, and suspects.
 - 9. Risk of escape.
 - 10. Previous violent history of suspect known by officer at the time, or other exigent circumstances.
- B. Excessive Force: Any Police Department employee who witnesses any police officer use force that appears to be in violation of this standard, shall report such use of force to his/her immediate supervisor as soon as it is practicable.

1.3.2 Deadly Force (see 1.3.1)

Principle: The Lakewood Police Department, in adherence to U.S. Supreme Court rulings, has further limited the use of deadly force.

- A. When Deadly Force is Authorized: An officer may employ deadly force when that officer has a reasonable and objective belief that a suspect poses an imminent threat of serious physical harm to the officer or others, or the officer has a reasonable and objective belief that the suspect poses an imminent threat of serious physical harm to the officer or others should arrest be delayed and a warning to stop is first given to the suspect, if feasible.

The objectively reasonable standard is based upon the totality of the facts known to the officer at the time.

- B. Authorized Discharge of Firearm: In addition to the instances when deadly force is authorized, officers may discharge a firearm in the following instances.
 - 1. To kill an animal that is so seriously injured that humanity requires its removal from further suffering and no other disposition is practical. The officer must have prior approval from a supervisor, but may act humanely if a supervisor does not respond in a reasonable amount of time. SOUTHSOUND 911 Communications shall always be given advance notice, either by telephone or radio contact, of the pending firearm discharge. A General Report shall be written to document the action.
 - 2. To perform firearms training or qualifications at an approved shooting range or for lawful recreational purposes.

3. To perform forensic testing.

1.3.3 Warning Shots

Principle: Due to the extreme hazards warning shots pose to bystanders and citizens, warning shots are not authorized.

1.3.4 Less Lethal Force

Principle: When less lethal force is appropriate officers should assess the incident in order to determine which less lethal technique or weapon will best de-escalate the incident and bring it under control in a safe manner. Officers shall adhere to the same standards when applying “less lethal force” as required upon use of force pursuant to this chapter.

Practice:

- A. **Physical Force:** All physical force employed by an officer must conform to the standards set by the RCW and *Graham v. Connor* (109 S.Ct.1865 (1989)). Officers must articulate in a report the specific facts relied upon to justify the use of force, not the conclusion. The reasonableness of the use of force will be judged by the perspective of a reasonable officer on the scene, as to whether the force used was objectively reasonable in light of the circumstances. Use of force decisions are recognized to be split second judgments, in tense, uncertain, rapidly evolving circumstances.
 1. **Authorized less lethal force tools:** The carrying of ranged less lethal force tools by uniformed LPD personnel is mandatory. All uniformed personnel shall carry an impact weapon (either ASP or straight baton) while in uniform. In addition, all uniformed personnel shall carry either OC10 or a Taser while in uniform. Officers may choose to carry both OC10 and a Taser while in uniform. Officers shall be authorized to carry only Tasers or OC10 issued by the department. The carrying of impact weapons, OC10, and Tasers by plain clothes personnel is optional.
- B. **Use of Oleoresin Capsicum (OC):** The carrying of OC by fully commissioned officers in a non-uniform assignment and command staff is optional.
 1. The reasonable employment of OC spray for defense or control is permitted only when there is some level of articulable threat to the officer or others. The use of OC spray is not inconsequential, and must be justified by the circumstances known to the officer at the time.
 2. Cool water should be used to rinse the contaminated area of the persons who have come in contact with OC as soon as is practicable.
- C. **Impact Weapons:** The carrying of the department-approved baton is mandatory for fully commissioned uniformed officers and optional for fully commissioned officers in a non-uniform assignment and command staff.
 1. When the baton is being carried, it must be readily accessible to the officer at all times.
 2. It is the intent of the department that an authorized baton be used as an impact weapon when such force is objectively reasonable. In situations when an impact weapon is the objectively reasonable tool to use, other items immediately accessible to the officer may be used as impact weapons in the manner prescribed in this Standard.
 3. An impact weapon will not be used, as a weapon, against non-combative persons.
 4. When using impact weapons, blows shall not be intentionally delivered to a person's head, neck or throat areas unless the use of deadly force is justified. Intentional strikes to the head, neck, or throat with an impact weapon are considered to be deadly force and shall only be used in compliance to Standard 1.3.2.
 5. The standard issue impact weapon of the Lakewood Police Department is the ASP expandable baton. Officers may carry a personally owned impact weapon. If an officer chooses to carry a personal impact weapon the purchase, care and maintenance of the impact weapon shall be at the officer's expense.

Officers may choose an expandable straight baton or a fixed straight baton. No other types of batons are authorized for duty. Officers choosing to carry a personally owned impact weapon shall follow the following guidelines.

- Only batons professionally manufactured for use as police impact weapons may be carried.
 - Officers choosing to carry a personal baton shall have the baton inspected by PSS and a member of the DT Cadre.
 - Any modifications to the baton, including caps, nubs, or other modifications shall be approved by PSS and a member of the DT Cadre.
 - Duty batons shall not exceed 28 inches when fully extended.
- D. Taser: Fully commissioned police officers, reserve officers, court compliance officers, and Animal Control Officers may carry or use Tasers. Community Service Officers (CSOs) are not authorized to carry or deploy Tasers. The Taser is considered a non-lethal weapon, highly unlikely to cause death or serious physical injury and intended only to temporarily incapacitate a violent or potentially violent subject. It is anticipated the appropriate use of the Taser will result in fewer serious injuries to both officers and subjects. Tasers are intended to provide officers with a force response option that may be appropriately used when necessary to confront any of the following circumstances:
- To overcome a subject's combative intent, physical resistance, and/or assaultive behavior, or
 - To control, disable or subdue persons bent on harming themselves or others, or
 - To provide self-defense.

At the same time, Tasers may not be used where statutory requirements for use of force cannot be satisfied. Examples include use of the Taser against passive subjects, or for the purpose of recovering evidence or, absent suspect resistance justifying the legal application of necessary force. In no situation are officers required to use less force than is being threatened by a subject.

Personnel must successfully complete a Department authorized training and certification course before they may use a Taser. Officers may only use a Taser issued by the Department.

Applications of the Taser are expected to conform to the principles outlined in the Departments' training and certification course, and be consistent with Department policy on the use of force. In deciding to deploy a Taser, officers should carefully evaluate conditions or factors they know or have reason to believe about subjects that may affect responses to the deployment or increase the indirect risks (such as injuries caused by a fall) of the deployment. Such conditions or factors include subjects who are: very old or very young; known to be pregnant; physically disabled; subjects in wheelchairs or other personal mobility devices; subjects known to have neuromuscular disorders such as multiple sclerosis, muscular dystrophy, or epilepsy; subjects known to be wearing pacemakers or other biomedical devices sensitive to electrical current; subjects suffering from a debilitating illness or medical condition; or drug users. In such cases the need to stop the behavior should clearly justify the potential for additional risks.

Animal Control Officers should consider that the use of a Taser against a human subject is for self-defense only. Lacking other means and authority to control an aggressive subject, the officer should plan an avenue of retreat and/or means to create distance for safety when the Taser is no longer deployed on the subject. In all cases of self-defense against a human subject, the Animal Control Officer shall disengage as soon as it is safe to do so and request back-up.

Furthermore, in deciding to deploy a Taser, officers should carefully evaluate the environmental conditions and physical settings in which they confront subjects. These may include a subject's exposure to flammables such as gasoline, gunpowder, explosives, or alcohol-based pepper spray that may be ignited from a spark; or the subject's position near a fire, stairwell, or swimming pool where the risks of secondary injuries from incapacitation or falls may be increased.

At the earliest practical opportunity, an LPD supervisor shall be notified of a potential for, or completed, less lethal Taser application and shall determine if it is necessary to respond to the scene. Where the above- noted conditions or factors are involved, a supervisor shall respond to the scene, documenting the on-site presence in the use of force packet.

After deploying a Taser against a subject, officers shall adhere to the practices described in Manual of Standards section 1.3.5 Post Use of Force Practices.

- E. Vascular Neck Restraint (VNR): Only officers trained in when to use, and how to apply the VNR are authorized to employ VNR techniques. Those officers authorized to employ the VNR will receive refresher training on an annual basis at a minimum.

The WSCJTC is the agency certifying instructors in the VNR and LPD DT Instructors must have a current VNR certification through the WSCJTC in order to teach VNR techniques and to certify officers in the VNR techniques.

Some types of neck restraint holds are considered a use of deadly force while others through technique and level of application are available for use at lower levels of force. "Bar arm" type chokes that compress the airway and other structures of the front part of the neck shall be considered a use of deadly force. The Vascular Neck Restraint (VNR) technique which applies pressure to the lateral portion of the neck and restricts blood flow to and from the brain shall not be considered a use of deadly force.

Absent justification for the use of deadly force the Vascular Neck Restraint is the only department authorized neck restraint technique. VNR is categorized into two levels of application:

1. Level I – Control - May be used to overcome active-static or active-egressive resistance.
2. Level II – Compression - May be used to overcome aggressive resistance or when other force options are ineffective.

As with all use of force incidents, uses of VNR will be documented in the general report citing the specific circumstances of use, the subject's actions, level of VNR applied, how quickly compliance was achieved, how compliance was indicated, whether or not the person was rendered unconscious, any injuries to the officer or to the subject, and if applicable, the name of the medical professional who examined the subject as well as the two hour observation of the subject after application. A copy of this report will be attached to the Blue Team. If the subject is screened by fire or hospital personnel, a copy of their evaluation should be given to the appropriate booking facility along with a medical records release form if this is obtained.

All subjects who receive an VNR application, regardless of whether they are rendered unconscious, shall:

- a. Be handcuffed (double locked and properly gauged).
 - b. Be screened by a hospital emergency room physician or other medical professional; the officer will advise the medical professional that a VNR has been applied to the subject.
 - c. If rendered unconscious, be under visual observation for two (2) hours following the application of the VNR. This observation period may include observation of the subject in the jail prior to placement into population. The officer observing the suspect will notify EMS and/or seek medical attention in the event the officer observes changes in the suspect's condition.
 - d. Have the VNR application noted on their booking form.
- F. Police Service Dog (PSD): Refer to Standard 41.1.4 for practices regarding applying a PSD as a use of force.
 - G. Specialty Munitions: Only fully commissioned personnel who have successfully completed departmentally approved training courses in the proper use and deployment of specialty munitions shall be authorized to use or deploy them.

1.3.5 Post Use of Force Practices (Also Refer to Standard 1.3.6 & 1.3.7)

Principle: The force response may cause injury to citizens and/or officers. Officers are obligated to render medical aid to any person who is under arrest and in medical need. In addition, a force response must be justified by the officer employing the force. The review of incidents involving the use of force allows the Police Department to ensure that force is being used

appropriately and to identify organizational needs (training, equipment, etc...) in this area. Officers should err on the side of caution and when in doubt, document the use of force.

Practice: Whenever an officer uses the below listed force, the following practices shall apply:

- Any use of physical strength, skill, or pain compliance techniques that results in a visible injury or complaint of injury
 - Any use of physical strikes (blows)
 - Any use of a less lethal weapon as identified in Standard 1.3.4
 - Any discharge of a firearm – except during departmental training or off-duty recreation
 - Any time multiple officers are required to overcome resistance
 - Any technique used to take the person to the ground
 - Any time multiple officers are required to overcome resistance
- A. Medical Assistance: Whenever there is a significant injury or loss of consciousness a medical response shall be requested immediately. If the person has received minor injuries or is complaining of injury, the officer shall offer to have medical aid respond for the subject. Officers shall make every effort to facilitate the rendering of aid to an injured person while maintaining necessary control of the person for safety reasons.
1. Taser Dart Removal:
- a. By Officers: Officers may remove the Taser darts from the person or his/her clothing when the darts have not struck sensitive areas. The darts shall be treated as contaminated bio-hazardous sharps.
 - b. By Medical Staff: If a dart(s) strike a suspect in a sensitive area (face, breast, genitals) the suspect shall be transported to a medical facility for the dart(s) to be removed. The darts will be collected as evidence and photographs of the injuries will be taken.
- B. Report to Supervisor: The officer shall report the incident to the on-duty patrol supervisor as soon as is practicable after the incident has been controlled. A supervisor shall respond to the scene whenever practicable, to ensure that the proper practices are followed, and evaluate the necessity for additional resources and/or investigation. Some circumstances warrant a supervisory presence and on-scene medical evaluation at the site of a Taser application. Such circumstances can include uses of the Taser on a very young or very old subject; where the officer has credible information on a subject's preexisting medical condition; on a subject found to have a special medical condition (for example, pregnancy or epilepsy) or a debilitating illness; or on a subject whose demeanor and response required repeated applications of the Taser and/or other uses of force. In situations where three or more Taser applications were required or where the noted factors or conditions of the Tasered subject are found to be present, a supervisor shall be called to the scene. When a supervisor cannot respond, as soon as possible they will conduct a thorough review of the force response.
- C. Written Report: Involved officers will be responsible for completing a Force Response Review. The review will include documentation of the events resulting in the force response, the type of force used, and the results of that force. Supervisors will review the report to ensure compliance with applicable policies and procedures and forward it up the chain. This should occur before the involved officer ends his/her shift. PSS retains the review to conduct its annual Force Response analysis.
1. Officers: All officers involved in an incident resulting in a force response shall complete a supplement to the police report regarding their involvement in the incident.
2. Supervisors:
- a. A more thorough investigation into the force response may be requested. Supervisors should collect the necessary information at the time of the incident to complete such an investigation.
 - b. The command staff should be notified of incidents where either the suspect or officer is seriously injured. Refer to Standard 12.1.2 to ensure proper Command Notification.

- D. Use of Firearm or Taser on an Animal: If an officer fires on an animal with his/her firearm or Taser a General Report is required. Additionally a department Force Response review is required. Following this procedure will ensure that discharges of firearms are reviewed, and that Taser applications are documented. This is especially important in the case of the Taser applications, so that Taser data downloads (by serial number) are accurate.