

## 1.02.00 USE OF FORCE/DEADLY FORCE

### POLICY STATEMENT

The Palouse Police Department places its highest value on the life and safety of its officers and the public. The Department's policies, rules, and procedures are designed to ensure that this value guides the use of force by its police officers.

Department members shall not use either physical or deadly force on any person except that which is reasonably necessary to effect and arrest, to defend themselves or others from violence, or to otherwise accomplish police duties according to law. This policy is not to be any more restrictive than Washington State Law.

Secondly, whenever force is used, criminal charges should be filed against the suspect, when appropriate. If any injury, or complaint of injury results from the Use of Force to the person(s) or officer(s) involved, a Use of Force report will be submitted to the Chief of Police via-Chain of Command.

### 1.02.01 DEFINITIONS

For purpose of this policy:

**"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(RCW 9A.16.010(2)).

**"Physical Force"** means the intentional application of force through the use of physical contact that does not rise to the level of deadly force.

1. This includes hitting, with or without an object, kicking, use of any chemical agent, or any other use of force that results in injury or complaint of injury.
2. This does not include routine handcuffing and control holds not amounting to the conditions above.

**"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 (RCW 9A.16.010(1)).

### 1.02.02 USE OF FORCE AND MEDICAL TREATMENT:

If possible, the officer shall ensure that the person involved in the use of force receives first aid or medical treatment, if needed or requested.

### 1.02.03 DEADLY FORCE, USE OF:

RCW 9A.16 establishes a higher standard for the police officer than the private citizen in the application of deadly force.

1. Firearms shall not be drawn or pointed unless an officer has reason to believe that their use may be required.
2. When necessary, an officer may generally use deadly force only when **both** of the following elements exist:

- a. Either to overcome actual resistance to the execution of the legal process, mandate, order of a court or officer, or in discharge of a legal duty, or to arrest a person who the officer reasonably believes has committed, has attempted to commit, is committing, is attempting to commit a felony; **and**
  - b. The officer had probable cause to believe that the suspect, if not apprehended, poses a threat of **serious physical harm** to the officer or others.
3. The threat of serious physical harm includes, but is not limited to, cases which:
- a. An armed suspect threatens someone or displays a weapon in a threatening manner; or
  - b. It is reasonably believed that the suspect committed or attempted to commit a crime of violence involving either actual or threatened serious physical injury.
4. If possible, officers should warn the suspect that deadly force may be used if any escape from custody is attempted.
5. RCW 9A.16.040(3) states that "a public officer or peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section."  
**\*Officers shall not be censured or disciplined if a suspect is not apprehended, where the officer deemed the use of deadly force to be unwise.**
6. Officers shall read and fully understand RCW 9A.16.010-9A.16.040.
- a. RCW 9A.16.010 Definitions. In this chapter, unless a different meaning is plainly required:
    - (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.
    - (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.
  - b. RCW 9A.16.020 Use of Force-When Lawful. The use, attempt, or offer 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;
    - (2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him or her to a public officer competent to receive him or her into custody;
    - (3) Whenever used by a party about to be injured, or by another lawfully aiding him or her, in preventing or attempting to prevent an offense against his or her person, or malicious trespass, or other malicious interference with real or personal property lawfully in his or her possession, in case the force is not more than is necessary;
    - (4) Whenever reasonably used by a person to detain someone who enters or remains unlawfully in a building or real property in the possession of such person, so long as such detention is reasonable in duration and manner to investigate the reason for the detained person's presence on

the premises, and so long as the premises in question did not reasonably appear to be intended to be open to members of the public;

- (5) Whenever used by a carrier of passengers or the carrier's authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than is necessary to expel the offender with reasonable regard to the offender's personal safety;
- (6) Whenever used by any person to prevent a mentally ill, mentally incompetent or mentally disabled person from committing an act dangerous to another person. When enforcing necessary restraint for the protection or restoration to health of the person, during such period only as is necessary to obtain legal authority for the restraint or custody of the person.

RCW 9A.16.030 Homicide-When excusable. Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, without criminal negligence, or without any unlawful intent.

RCW 9A.16.040 Justifiable homicide or use of deadly force by public officer, peace officer, person aiding.

(1) Homicide or the use of deadly force is justifiable in the following cases:

- (a) When a public officer is acting in obedience to the judgment of a competent court; or When necessarily used by a peace officer to overcome resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty. When necessarily used by a peace officer or person acting under the officer's command and in the officer's aid: To arrest or apprehend a person who the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a felony;
  - (I) To prevent the escape of a person from a federal or state correctional facility or in retaking a person who escapes from such a facility; or
  - (II) To prevent the escape of a person from a county or city jail or holding facility if the person has been arrested for, charged with, or convicted of a felony; or
  - (III) To lawfully suppress a riot if the actor or another participant is armed with a deadly weapon.

(2) In considering whether to use deadly force under subsection(1) of this section, to arrest or apprehend any person for the commission of any crime, the peace officer must have probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm to the officers or a threat of serious physical harm to others. Among the circumstances which may be considered by peace officers as a "threat of serious physical harm" are the following:

- (a) The suspect threatens a peace officer with a weapon or displays a weapon or displays a weapon in a manner that could

- reasonably be construed as threatening; or
- (b) There is probable cause to believe that the suspect has committed any crime involving the infliction or threatened infliction of serious physical harm. Under these circumstances deadly force may also be used if necessary to prevent escape from the officer, where, if feasible, some warning is given.
- (3) A public officer or peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable pursuant to this section.
- (4) This section shall not be construed as:  
Affecting the permissible use of force by a person acting under the authority of RCW 9A.16.020 or 9A.16.050; or
- (a) Preventing a law enforcement agency from adopting standards pertaining to its use of deadly force that are more restrictive than this section.

#### **1.02.04 RESTRICTIONS**

1. Under no circumstances shall a firearm or any other form of deadly force be used when the crime involved is clearly a misdemeanor.
2. Discharging a firearm as a warning is prohibited.
3. Officers shall not shoot at or from moving vehicles, except as a last resort to protect the officer(s) or others from an immediate threat of death or serious bodily injury.
4. Officers shall not make any physical application or maneuver to the neck region that restricts blood or air flow (ie., choke holds, sleeper holds, carotid submission holds, etc.), except as a last resort to protect the officer(s) or others from an immediate threat of death or serious bodily injury.
5. All sworn personnel shall receive and demonstrate understanding of the policy prior to being authorized to carry any firearm.
  - Any and all variations of these maneuvers may be considered, **deadly force** when applied to the neck region.

#### **1.03.00 NON-LETHAL WEAPONS POLICY**

The Use of Force is recognized as a matter of considerable variables and is contingent upon escalating and de-escalating factors, present at the time of use. The use of non-lethal force is authorized by RCW 9A.16.020. To successfully deal with situations requiring justifiable use of reasonable force, and running risk to its officers and the public involved, certain procedures and non-lethal weapons are authorized.

##### **1.03.01 CONTINUUM OF FORCE**

- I. Command Presence: Officers present on scene in uniform.
- II. Verbal Commands: Verbal direction.

- III. Hands On: 1. Passive: Open hand, directing movement.  
2. Active: Hands-On compliance.
  - IV. Aerosol O.C. Agents(OC spray): Aerosol O.C. irritant to obtain compliance.  
Tazer (shock) to obtain compliance.
  - V. Impact Device: Pain response to obtain compliance used only when the following requirements are met:
    - 1) Successful completion of an approved course for the use of impact devices.
    - 2) Employees have received First Aid training.
    - 3) As a last resort in self-defense or defense of others whenever the force used or attempted to be used against the officer or another is potentially lethal or creates a substantial risk of serious bodily harm.
  - VI. Deadly Force: Officers may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death near-about, or critical bodily harm.
- Due to the fact that officer/citizen confrontations occur in environments that are potentially unpredictable and are tense, uncertain and rapidly evolving. Officers may use tools and tactics outside the parameters of departmental training. All such applications of force shall meet the same standard of reasonableness As those which have been previously identified and approved.

### **1.03.02 UNARMED DEFENSE TACTICS**

U.D.T.'s are techniques when used maximize control and minimize damage to both person/suspect and officer.

U.D.T.'s are techniques that are taught by a certified instructor at the W.S.C.J.T.C.  
Choke holds: Are not authorized by the Palouse Police Department.

### **1.03.03 OLEORESIN OF CAPSICUM**

Officers will use aerosol O.C. agents in a manner consistent with training in the use of such agents. Aerosol O.C. agents may be used to protect an officer or other person(s) when the amount of resistance cannot be overcome by a lesser use of force. **NOTE:** Oleoresin of Capsicum Training Manual Appendix I.

### **1.03.04 IMPACT WEAPONS**

Officers will employ impact weapons in a manner consistent with the training received in the use of the impact weapon.

Striking persons in the head or groin area should be avoided unless the Officer must protect him/herself or others from serious injury.

Employees who have received and satisfactorily completed training may carry and employ "ASP" Baton or Side handle baton upon written request and approval from the Chief of Police.

The Flashlight(Maglite) may be utilized in the immediate self-defense of the Officer and/or another person.

### **1.03.05 RESTRAINTS(Handcuffs, Leg Irons, Flex Cuffs, and Belly Chains)**

All persons taken into custody should be handcuffed with their hands behind their backs. Failure to handcuff a felon may be considered neglect of duty. Other restraints may be used when in the discretion of the Officer, it will reduce the risk of injury or damage to property or escape.

- It is recommended that handcuffs be double locked.

### **1.03.06 BOUND AND TIED SUSPECTS**

Policy Statement: Transporting "bound and tied" suspects may pose serious and unpredictable health hazards and is strongly discouraged. If no other reasonable mode of transportation exists, officers making such transports shall comply with the following procedures.

### **1.03.07 DEFINITION**

**Bound and tied:** Restraining a person with the wrists secured in the back and the ankles bound together, the ankles and the wrists are then secured together.

### **1.03.08 OFFICER RESPONSIBILITY**

1. Always remain physically present with a bound and tied suspect until the suspect is released from a bound and tied position. This includes, but is not limited to:
  - a. In the police vehicle.
  - b. In the field.
  - c. In holding cells.
  - d. In interview rooms.
  - e. Awaiting medical treatment unless relieved by approved jail personnel.
2. Immediately contact the Chief of Police
3. Always make bound and tied transports with another officer.

### **1.03.09 CHIEF OF POLICE**

1. Respond to the scene if necessary.
2. Determine if there is an alternative mode of transportation rather than transporting the suspect in the bound and tied position.
  - If none exists, the transport shall be made with at least two(2) officers.

### **1.03.10 SECOND OFFICER RESPONSIBILITIES**

The second transporting officer shall:

1. Always have a clear and unobstructed view of the suspect.
2. Always monitor the suspects condition(ie. talk with the suspect,, etc.)

### **1.03.11 EMERGENCY SITUATION**

If suspects condition appears to deteriorate, the officer shall:

1. Immediately stop and radio for aid.
2. Unbound the suspect if necessary.
3. Render appropriate First-Aid.
4. Notify the Chief of Police.

### **1.03.12 FORCE, REPORTING USE OF**

Policy Statement: It is the policy of the Department to promptly report and to thoroughly investigate any use of force incident. Whenever an officer uses either deadly force or physical force; **REPORTING IS MANDATORY.**

### **1.03.13 DEFINITIONS**

**“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(RCW 9A.16.010(2)).

**“Physical Force”** means the intentional application of force through the use of physical contact that does not rise to the level of deadly force.

1. This includes hitting with or without an object, kicking, use of any chemical agent, or any other use of force that results in injury or complaint of injury.
2. This does not include routine handcuffing and control holds not amounting to the conditions above.

### **1.03.14 OFFICER RESPONSIBILITIES**

**The officer shall:**

1. Immediately notify the Chief of Police.
2. Document the incident in detail in an Officer's Report.
  - a. The officer may consult an attorney before making a formal statement.
    - Any report may be disclosed to adverse persons in criminal, civil or administrative proceedings.
  - b. The involved officer's statement shall be submitted no later that twenty-four(24) hours after the incident.

### **1.03.15 CHIEF OF POLICE RESPONSIBILITIES**

**The Chief shall:**

1. Immediately investigate and review the incident .
2. Identify and interview:
  - a. The person(s) involved.

- b. Available witnesses.
  3. Review the officer's statement, if available.
  4. Obtain written victim and witness statements.
  5. Ensure that the person(s) involved is not released from custody or booked into jail without in-person approval.
    - Exceptions may be made by a higher authority with exceptions documented.
  6. Prepare a Supervisor's Incident Review Report of the findings and include:
    - a. Evaluate the appropriateness and necessity of the force used.
    - b. Document and photograph any injuries or complaint of injuries whether visible or not.
    - c. Conclusion(s) and recommendations for further action.
  7. Forward the original case packet to the Chief of Police.

#### **1.04.00 FIREARMS AND AMMUNITION**

##### **1.04.01 DUTY WEAPON**

All on-duty fully commissioned Police Officers, including Reserve Officers will be armed with authorized duty weapons unless specifically relieved of that duty by the Chief of Police.

- a. Fully commissioned Officers of the Palouse Police Department will be permitted to carry approved duty weapons.
- b. Approved Duty weapon will be of the following types. 9mm, 40, 357 and 45 cal.
- c. Department preferred duty weapon will be 40 cal. Glock, Smith & Wesson, Sig Sauer, Beretta. All other weapons not listed. Must be with permission of the Chief of Police.

##### **1.04.02 OFF-DUTY**

Carrying of off-duty weapons by fully commissioned officers is optional. Carrying of off-duty weapon by other members with limited commissions or non-commissioned members is not authorized by the Department.

##### **1.04.03 SECOND WEAPON-other than duty weapon.**

Second on-duty or off-duty weapons may be carried only under the following conditions:

1. Written request and approval by the Chief of Police.
2. The weapon must meet Department requirements and specifications. 1.04.01
3. The weapon must contain Department approved ammunition. (at the expense of the employee.)
4. The officer must qualify at least annually with the weapon as prescribed by the Department Rangemaster.
5. Authorization to carry may be denied with or without cause by the Chief of Police.