

### 1.3 USE OF FORCE

**PHILOSOPHY:** The Federal Way Police Department strives to deliver police services as efficiently and unobtrusively as possible with minimal reliance upon the use of physical force or response to resistance. 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 Use of Force

**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 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 resist, the officer may use all necessary means to effect the arrest."

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1. 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 requirement. See *Standard 1.3.2*.

C. **RCW 9A.16.040**. Identifies when homicide or the use of deadly force is justifiable and describes circumstances under which an officer may consider the use of deadly force: "In considering whether to use deadly force under subsection (1)(c) 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 officer or a threat of serious physical harm to others." The RCW goes on to further detail what is considered a threat of serious physical harm (i.e., displaying a weapon in a threatening manner).

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

- A. **Force:** Any of the following when intentionally used by an officer on or toward another human being:
  - Handcuffing,
  - Physical strength (this includes holding, grabbing, tackling, and other take downs, but does not include mere touching),
  - Counter-joint and pressure point techniques, and other pain compliance techniques,
  - Physical strikes (blows), including strikes with an impact weapon or other device,
  - Any application of a VNR technique,
  - Pointing a firearm directly at a person, and
  - Any discharge of a weapon (OC, Conducted Electrical Weapon, firearm), regardless whether the subject was hit.
- B. **Lethal Force:** The intentional application of force through the use of firearms or any other means creating a substantial risk of death or serious physical injury.
- C. **Necessary:** Means that no reasonably effective alternative to the use of force appeared to exist at the time and that the amount of force used was reasonable to accomplish the lawful purpose intended.
- D. **Probable Cause:** Facts and circumstances within the officer's knowledge are sufficient to warrant a prudent person to believe a suspect has committed or is committing a crime.
- E. **Reasonable Belief:** Facts, circumstances or knowledge presented to the officer are sufficient to justify a thought or feeling at the time the force was used.

**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).
  2. Officer / subject factors (age, size, relative strength, skill level, injury/exhaustion, and number of officers vs. subjects)
  3. Influence of drugs/alcohol (mental capacity).

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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. Other exigent circumstances

B. **Excessive Force:** Any Police Department employee who witnesses a Federal Way officer use force that appears to be in violation of this standard shall report such use of force to his/her immediate supervisor in as soon as practical.

1.3.2 Lethal Force

A. **When Lethal Force Is Authorized:**

1. An officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer’s own life, or in defense of any person in imminent danger of serious physical harm.
2. An officer may use deadly force when the officer reasonably believes it to be necessary to effect the arrest or prevent the escape of a criminal suspect when the officer has probable cause to believe that the person has committed or intends to commit a felony involving the infliction or threatened infliction of serious physical harm or death.
3. When feasible, a verbal warning should precede the use of lethal (deadly) force.

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