

15.5 USE OF FORCE – MISCELLANEOUS PROVISIONS

Display/Brandishing of Weapon – LVNR – Weapons of Opportunity – Blow to Head

Officers shall not display or brandish any weapon in a threatening or intimidating fashion unless it is reasonably necessary to do so to effectively bring an incident under control.

The use of any neck holds, to include those such as the Lateral Vascular Neck Restraint (LVNR), is generally prohibited, except in certain extreme situations of self defense or defense of others. An officer using a neck hold must be prepared to justify this extreme action. Whenever an officer uses a neck hold, a supervisor will be notified and respond to the scene. The officer or supervisor will immediately cause the person that received the neck hold to be examined by medical personnel.

A police officer may use weapons of opportunity when the officer's ability to deploy Department authorized tools (weapons) is not available. The level of force used must be necessary and reasonable in accordance with Department policy.

The use by an officer of any hard object to intentionally strike a blow to a person's head is generally prohibited, except in certain extreme situations of self defense or defense of others. An officer applying a blow to a person's head must be prepared to justify this extreme action. Whenever an officer applies a blow to a person's head, a supervisor will be notified and respond to the scene. The officer or supervisor will immediately cause the person receiving the blow to be examined by medical personnel.

Officer Use of Vehicle

The use of a vehicle to make contact with a person or another vehicle in order to stop a fleeing offender is generally prohibited, except in extreme situations. Supervisory approval is generally required prior to performing intentional vehicle intervention. An officer that opts to use vehicle intervention must be fully prepared to justify this extreme action. (See Policy 10.4 Vehicle Pursuits)

Animals

Use of force toward animals may be used only when it is objectively reasonable and necessary to defend an officer or a third party against a threat of significant physical injury, **or** to save a badly injured animal from suffering. Whenever an animal is intentionally injured or dispatched by an officer an Incident Report will be written. If the animal was injured or dispatched in the course of defending an officer or third party, a supervisor will be notified, respond to the scene and a copy of the report will be forwarded and reviewed through the chain of command and filed in the Office of Professional Standards. Humanitarian dispatch requires permission of a supervisor whenever possible, and animals must be dispatched safely and out of the view of the public if possible (see Procedures Manual Section 3.04).

Use of Force by Off-Duty Officers

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Off-duty officers are discouraged from taking forcible police action except in circumstances that seriously threaten life or when requested to assist by on-duty personnel. Often the most appropriate police action is to immediately report the incident to on-duty officers or the appropriate jurisdiction. Officers should carefully consider the risks to themselves and to others when taking police action while off-duty.

Use of Force by Off-Duty Officers Working an Off-Duty Detail

Off-duty officers or officers working any off-duty detail or assignment approved by the Chief of Police or designee involved in any reportable use of force incident shall be subject to the same use of force and reporting requirements which apply on-duty.

Injury – Medical Attention

Medical assistance shall be obtained as soon as is practicable for subjects who have sustained injury, express any complaints of injury, been rendered unconscious, or the officer suspects has been injured. In the event a subject is injured, officers should provide or obtain appropriate medical treatment while the subject is in Police custody (see also Section 16.1, "Reportable Use of Force").

15.6 ELECTRONIC CONTROL DEVICE (ECD)

Use of the ECD is subject to Section 15.3 "Use of Force Policy." In addition, the following should be noted:

Deployment – General

ECD's will only be used by authorized, trained personnel, within the guidelines of Department policies and procedures covering Use of Force in general and use of ECD's specifically. ECD's are not intended to replace firearms.

It is the policy of the Everett Police Department that officers, whenever possible under the circumstances, give a verbal warning to the subject before applying the ECD.

Classification as "Intermediate, Significant Force"

The courts classify "dart mode" application of the ECD as "an intermediate, significant use of force." The courts have not stated a similar standard for "drive stun mode." The classification of dart mode applications of ECD as "intermediate, significant force" means that those applications are considered a greater intrusion than other non-lethal methods of force, and the reviewing court will look for a governmental interest that compels the use of such force.

Multiple/Extended Applications

Multiple applications of five-second cycles may be required to bring a subject under control. The ECD will only be used for the number of applications and duration of time that is necessary to bring a subject under control. The justification for an extended application or for multiple applications of the ECD must be separately articulated in the report.

When determining justification for an extended application or for multiple applications of the ECD, officers should:

- Determine that the initial use of ECD is justified, using the use of force factors set forth in Department policies.
- If the circumstances that justified the initial ECD use change, re-evaluate the necessity for continued application. For example, if the initial use were justified because the officer was alone with a subject who posed an immediate threat to the safety of others and was ignoring commands to stop, arrival of another officer to provide backup for the arrest will require re-evaluation of the need for ECD to bring the subject under control.
- Be cognizant of whether a subject who has been exposed to an ECD is *unable*, rather than *unwilling* to comply with commands given by officers. Involuntary actions (such as a reflex action) will not be considered active resistance. The focus should be on whether a subject who has been exposed to an ECD is reacting to the shock of the ECD or is continuing to intentionally resist arrest.
- The subject must be given an opportunity to comply with commands or demonstrate compliance before additional applications or before application of a continuous cycle. For example, the time period between multiple ECD applications must be sufficient to give the subject the opportunity to comply with commands.

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Prohibited Use

Use of the ECD is prohibited when:

- It is known that there are flammable liquids nearby, in known or suspected meth labs, or in other hazardous environments where flammable liquids or fumes are suspected;
- The incapacitation of the subject would result in the subject falling from an elevation sufficient to cause significant injury to the subject, or into any hazardous environment apparently capable of causing secondary injury to the subject;
- The risk of muscle contraction due to ECD application could result in injury to the subject or others, such as when the subject is aiming a firearm at himself/herself or at another person;
- The application is punitive; or
- The application is intended to induce or coerce a response from the subject where the subject's conduct does not otherwise justify the use of force [see Policy 15.3].

Use of the ECD is generally prohibited when:

- The subject is an obviously pregnant female;
- The subject is obviously disabled, frail or infirm;
- The subject is a child under the age of 13;
- The subject is handcuffed or secured (unless the prisoner demonstrates overtly assaultive behavior that cannot be dealt with in another less intrusive manner);
- The subject is in physical control of a motor vehicle that is in motion or running; or
- The officer is in a moving vehicle

Certain circumstances may dictate the use of the ECD in these "generally prohibited" situations after consideration of alternative measures has been made and the ECD has been determined to be the force application most appropriate for the situation. In every case, the use of the ECD must be in accordance with EPD Use of Force Policies.

Response to Scene by Supervisor, Medical Personnel

A supervisor ~~should~~ will be notified and respond to the scene of every ECD application ~~and~~ The Everett Fire Department will be called to every ECD application for a medical evaluation. The EPD supervisor will ensure that all requirements of Procedure Manual Section 32.03 (ECD – Post Application Procedures) are met.

ECD Use by Officers Working Off-Duty

ECD's may be carried by authorized personnel while working off duty in a law enforcement capacity. ECD's are not intended in any way to replace firearms or any lethal force option.