

Washington State Office of the Attorney General



Use of Force Reporting, Investigation & Review

Best Practices

July 1, 2022

Best Practices for Use of Force Reporting, Investigation & Review

Core Principle: To be accountable to the public and assess agency policy development and training needs, every use of physical force and deadly force, as well as instances of pointing a firearm at a person, shall be reported internally and receive meaningful review by command staff.

Agencies also have a duty to report certain uses of force to the statewide use of force data program (see RCW 10.118.030 for reporting requirements).

Reporting Use of Force

- (1) Officers shall notify their supervisors immediately following any use of physical or deadly force. This duty applies to the officer who used force. Those officers who witnessed a use of force shall also ensure that the force is reported to a supervisor. The duty to notify a supervisor following any use of force includes any complaint or allegation of unreasonable or excessive force by the person upon whom force was used or others.
- (2) Except for uses of deadly force, where agencies may have report-writing protocols specific to deadly force incidents, officers who use physical force or are present at the scene where physical force is used shall submit a use of force report before the end of the shift unless extenuating circumstances, such as an injury to the officer, precludes this. The extenuating circumstances delaying any use of force report shall be documented.
 - (a) Pointing a firearm at a person is a reportable use of force.
 - (b) Compliant handcuffing is not reportable; however, officers must document when the application of handcuffs causes pain, as well as abrasions, lacerations, bruises, or other injuries caused by handcuffs or handcuffing.
- (3) Report Content

Officers shall provide specific facts to explain their decision to use physical or deadly force and to employ a particular force tool or tactic. Reports shall be descriptive, explaining the details of the incident and avoiding generic or vague phrases for observed behavior, such as “made a furtive movement” or “took a fighting stance.”

Use of force reports shall include the following information:

- (a) Summary of the incident that explains the reason for the initial contact between the officer and the person upon whom force was used, that person’s and the officer’s actions leading up to and during the use of force, and the specific type and amount of force used;
- (b) De-escalation efforts used or attempted, or the reasons none were used or attempted;
- (c) Reason for each use and type of force, including but not limited to, any threat to the officer or another person or any basis for believing the person upon whom physical force was used was armed;
- (d) Whether other force or non-force tactical options were available;
- (e) The manner in which officers identified themselves;
- (f) Any warning provided and time to comply before force was used, or the reasons none were provided;
- (g) Names and agencies of involved and witness officers;
- (h) Names and contact information of civilian witnesses;

- (i) Officer's status at time of the incident (i.e., uniform or plainclothes, marked or unmarked vehicle, alone or accompanied by other officers);
 - (j) Information about the person upon whom force was used, including name, age, sex, race and ethnicity, if known;
 - (k) Size and build of person upon whom force was used in relation to the officer;
 - (l) Any evidence that the person upon whom force was used was experiencing a behavioral health crisis;
 - (m) Other information about the characteristics and condition of the person upon whom force was used, including whether they appeared to be pregnant, a minor, or a vulnerable adult; displayed signs of impairment or disability; had limited English proficiency; or were in the presence of children;
 - (n) Facts supporting a detention, arrest or enforcement action, when applicable;
 - (o) Whether backup or other resources were requested and if so, when it arrived;
 - (p) Description of any injuries or complaints of injuries to the officer, the person upon whom physical force was used or witnesses;
 - (q) The first aid and medical assistance provided at the scene, if known by the officer; and
 - (r) Notification to a supervisor and whether a supervisor responded to the scene or was consulted before or during the incident.
- (4) Officers deploying an electronic control weapon (ECW) shall also document:
- (a) Make, model, serial number of the ECW;
 - (b) The number of ECW activations and total discharge duration;
 - (c) The type of mode used (probe or drive stun under exceptional circumstances);
 - (d) Location of where the probe/ECW contacted the person and the type of clothing, if any, the probes encountered, and;
 - (e) Relevant information to assess weapon effectiveness (i.e., whether probes contacted person, if not, why not - e.g., person's bulky clothing, person too far away, etc.).
- (5) Witness officers shall provide a narrative documenting their observations and actions.
- (6) Law enforcement agencies shall provide data on physical and deadly force incidents required by the statewide use of force data collection program. (RCW 10.118.030).

Investigating and Reviewing Use of Force

- (1) For incidents that result in death, serious bodily harm or great bodily harm, law enforcement agencies must immediately contact the Office of Independent Investigations pursuant to procedures established by the director (RCW 43.102.120).
- (2) For incidents that result in injury or complaint of injury (not momentary discomfort), hospitalization, or death of a person resulting from an officer's use of force, supervisors shall immediately notify the appropriate command staff.
- (3) A supervisor who used physical force or witnessed, directed, or ordered a use of physical force shall not perform the functions and responsibilities of the investigating or reviewing supervisor for the incident. When this situation occurs, a non-involved supervisor should be assigned to perform the functions and responsibilities of the investigating or reviewing supervisor.
- (4) Supervisor Responsibilities: Investigation

When notified of a use of physical force, the supervisor shall immediately respond to the scene, if

reasonably available, and conduct an appropriate investigation, except when the supervisor is notified of the use of lower level physical force. Although lower level physical force shall be documented and reviewed, supervisors do not need to respond to the scene to conduct an investigation when lower level physical force is the only force used during an incident.

For a use of physical force greater than lower level physical force, if the supervisor is not available to respond immediately to the location, he/she will document the reason.

For incidents not involving deadly force, the supervisor is responsible for ensuring completion of the following steps:

- (a) Secure and manage the scene.
- (b) Ensure all injured parties receive timely medical assistance.
- (c) Identify all officers who were involved in the incident, witnessed the incident or were on the scene when it occurred. Discuss the general circumstances of the incident with the involved and witness officers, as permitted, and ensure completion of their reports by the end of their shift unless an extenuating circumstance, such as an officer injury, precludes this.
- (d) Attempt to interview the individual upon whom physical force was used concerning the use of physical force and record the interview if possible while respecting their Miranda rights.
- (e) Identify civilian witnesses. Supervisors shall not detain or delay a witness who refuses to remain at the scene; however, the witness' physical description, contact information, other identifiers (e.g., driver's license), if known, and any witness statements shall be documented.
- (f) Document injuries and first aid provided or declined.
- (g) Photograph all injuries or claims of injuries, including the subject of force and any officers with injuries.
- (h) When practicable, photograph the scene to depict lighting, weather, vehicle placement, point of cover, or other relevant information.
- (i) If officers are outfitted with body worn cameras, obtain and review relevant footage of the use of physical force incident.
- (j) Ensure that all evidence relating to the use of physical force is canvassed, collected and documented.
 - i. Identify any third-party video that may have captured the incident, including surveillance and privately-owned home cameras in the area, document locations, and attempt to retrieve the footage. If unable to view or retrieve, document the reason why. If none is discovered, document that none was found.
 - ii. For ECW use, collect cartridges, probes, leads and copies of the ECW data download.
- (k) Identify medical personnel who evaluated or provided medical assistance to the person or officer.
- (l) Any misconduct or potential criminal conduct shall be immediately reported to the appropriate command staff.

(5) Supervisor Responsibilities: Review

- (a) The supervisor shall timely review all documents and evidence of the incident to ensure their completeness, accuracy and timeliness. Supervisors shall document what actions they took during their review (e.g., a review of all available reports, agency-recorded video, third-party video, witness statements, photographs, other investigatory information or observations).
- (b) The supervisor shall return incomplete or inadequate use of force reports for additional details or clarification.

- (c) The supervisor shall make an initial written recommendation whether the use of force complied with agency policy. Supervisors shall also identify any policy, training, tactical, supervision, planning and coordination, choice of force options, equipment, and post-incident conduct and performance issues raised by the incident and document these concerns and recommendations.
- (d) Supervisors shall complete their use of force review promptly and provide their evaluation and use of force reports and investigation for chain of command review.

(6) Command Review

- (a) Every reviewer in the chain of command is responsible for ensuring the accuracy, completion, and timeliness of the use of force reports and investigation. Each reviewer shall document their opinion as to whether the use of physical force complied with agency policy and identify any policy, training, tactical, equipment, or post-incident issues raised by the incident and document their concerns and recommendations.
- (b) Ultimately, the head of the agency or a designee shall determine whether the use of physical force was consistent with the agency's policy and ensure that any policy, training, tactical, supervision, planning and coordination, choice of force options, equipment, and post-incident conduct and performance issues raised by the incident are addressed.
- (c) Ensure that any complaint of misconduct by the person upon whom physical force was used or other individuals is documented and investigated according to the agency's complaint procedures.
- (d) Command staff shall make proper notifications and referrals if the use of force review indicates an allegation of criminal conduct or policy violation, including reporting to the Criminal Justice Training Commission as required by RCW 43.101.135.

(7) Training Review

An agency's training instructors shall review all use of force reports to determine trends and guide the development of in-service training.

(8) Administrative Investigation of Deadly Force

Separate and distinct from the criminal investigation of officer involved use of deadly force incidents conducted by the Office of Independent Investigations established by Chapter 43.102 RCW, or the Independent Investigative Team established by WAC 139-12, following the criminal investigation, the involved agency shall conduct a timely administrative investigation and review of deadly force incidents to determine compliance with agency policy and procedures and identify training needs. Upon completion of the administrative investigation, the involved agency should convene a Serious Incident Review Board.

Serious Incident Review Board

Each law enforcement agency should maintain a Serious Incident Review Board to review serious incidents, including each use of deadly force and any incident in which a person dies while in custody. The purpose of the review is to objectively evaluate the incident to (1) ensure that officers used their authority lawfully and in a manner that is consistent with the agency's expectations, training, and policy and (2) identify any needed training or policy changes.

This internal review process should be in addition to any other investigation conducted by the Office of Independent Investigations, the Independent Investigative Team, or other outside entity that has jurisdiction over the investigation or evaluation of the incident.

The Serious Incident Review Board may be convened to review the circumstances surrounding any use of physical force, at the discretion of agency leadership.

(1) Composition

Where feasible, the Board should be comprised of at a minimum:

- (a) The leader of the agency or his or her high-ranking designee(s);
- (b) Another command staff member or designee not involved in the incident;
- (c) Training personnel; and
- (d) A community member from the local jurisdiction who is not an officer.

(2) Scope and Responsibilities

Considering all statements, interviews, reports, and evidence from the incident, the Serious Incident Review Board is tasked with evaluating all aspects of the incident and making recommendations from the perspectives of tactics, training, policy, and equipment.

Areas the Board should consider include but are not limited to:

- (a) Tactical decision making, including communications and planning, that preceded the use of physical force;
- (b) Extent to which officers utilized de-escalation tactics;
- (c) Effectiveness of any on-scene or remote supervision;
- (d) Effectiveness of radio (including dispatcher) communications;
- (e) Effectiveness and availability of appropriate equipment;
- (f) Whether current policy provided sufficient guidance to involved officers;
- (g) Sufficiency of current training to prepare officers for the circumstances presented;
- (h) Post-incident decision making, including how effectively the on-scene officers transitioned to rescue mode and provided or facilitated first aid;
- (i) Communication with health care professionals (e.g., EMT, paramedic);
- (j) Effectiveness of communication with the family of injured individuals to notify them of the incident;
- (k) Supervisory performance following the use of force, including evidence preservation and witness identification; and
- (l) Quality of incident reports.

(3) Action Items

- (a) The Review Board should have a formal process to document, implement, and monitor all recommendations and action items arising from the Board's discussions, providing transparency to the public, when feasible.
- (b) At the conclusion of each Review Board meeting, the Board should designate a member to debrief the involved officers, witness officers, and any on-scene supervisors regarding all issues identified by the Review Board.
- (c) The Review Board should communicate lessons learned to all agency personnel.

Independent Audits of Force Incidents and Force Review Process

Agencies should consider engaging an independent auditor to review serious physical and deadly force incidents that raise concerns internally or externally. Agencies should also consider periodically engaging an independent auditor to examine the degree to which the agency's use of force policies and expectations regarding the use of force by their officers are being implemented through training and the agency's force review process. The findings and recommendations of any independent auditors should be documented in a public report.

Agencies should provide unfettered access to all relevant documents to independent auditors conducting any such review or examination.