

## **LAW ENFORCEMENT ROLE AND AUTHORITY**

### **CHAPTER 1**

#### **1.1.1**

#### **Oath of Office**

#### **WASPC Standard 2.1**

The Chief of Police or his/her designee will within thirty working days of his/her appointment, officially swear in each police officer hired by the Kennewick Police Department. The Oath of Office will be signed by both the officer and Chief of Police. The original Oath of Office document shall be maintained in the personnel file and a copy provided to the new officer. The Oath of Office document shall be prepared by the Administrative Assistant for the Chief of Police or designee.

#### **1.1.2**

#### **Canon of Ethics**

All members of the Kennewick Police Department will adhere to an articulated Code of Ethics and a set of ethical canons and standards, which encompass and describe expectations of behavior and conduct.

Each officer upon receiving the Oath of Office will also be provided with a copy of the Law Enforcement Code of Ethics by the Chief of Police. The adopted Canon of Ethics is:

“As a Law Enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all people to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.”

#### **1.1.2.01**

#### **Photo Identification**

Photographs will be taken of each employee for the purpose of identification and will be maintained in a secured database.

#### **1.1.3**

#### **Diversion Programs**

The department has limited involvement in Criminal Justice and Social Service Diversion programs. The department does participate in making recommendations to the Department of Corrections on Work Release placements. Further, the department participates in the Benton-Franklin Counties Children's

Behavioral Health Network, which on occasion makes placement recommendations to the Benton-Franklin Juvenile Court. Officers may also make referrals to the Juvenile "Drug Court."

### **1.1.3.01**

The Kennewick Police Department follows the provisions of the Revised Code of Washington specifying the method of handling highly intoxicated persons (**RCW 70.96.A**), and mental health commitments (**RCW 71.05.020**, **RCW 10.77**).

### **1.1.3.02**

Most first offender juveniles arrested for misdemeanors will enter the Juvenile Justice Diversion program as outlined by the laws of the State of Washington.

### **1.1.3.03**

All diversions handled per law or program guidelines, will documented by a case report and all necessary forms.

## **1.2.1**                      **Limits of Authority**

## **WASPC Standard 2.2**

The City of Kennewick Police Department is generally organized under the provisions of **RCW 35A** and **Article XI, Section II**, of the **Washington State Constitution**. The authority of officers is derived from these provisions as conferred through the commission issued by the Chief of Police. Officers of the Kennewick Police Department have the authority to enforce all laws of the city, county, state, and nation as mandated by laws and custom.

### **1.2.1.01**

Full time commissioned police officers are sworn to enforce the ordinances of the City of Kennewick and uphold standards adopted by this department, as well as enforcement of state and federal law, and protection of public peace and safety within the City of Kennewick. Police officers are also sworn to enforce city or county laws of concurrent jurisdiction as defined within any mutual aid agreement or the **Peace Officers Powers Act of 1985**. Officers' authority will be utilized within the limits of law, city charter, state constitution, and standards adopted by this department.

## **1.2.2**                      **Authority to Carry and Use Weapons**

## **WASPC Standard 3.7**

- A. **RCW 9.41.050** provides authority for carrying a firearm. **RCW 9.41.060** provides for exceptions to restrictions on carrying firearms, which includes law enforcement officers of this State.
- B. **RCW 10.93.070** provides authority for general authority Washington Peace officers who possess a certificate of basic law enforcement training or certificate of equivalency to enforce laws of this State under enumerated circumstances. This includes upon the prior written consent of the Chief of Police in whose primary territorial jurisdiction the exercise of powers occurs.
- C. City of Kennewick vests in the Chief of Police authority to issue commissions of law enforcement authority.
- D. No officer shall be allowed to carry a firearm or any other Department weapon prior to completing Department approved qualifications as required in The Kennewick Police Department Rules and Regulations. Officers shall also be trained in the limitations of the use of deadly force.

**1.2.3**                    **Constitutional Rights****WASPC Standard 2.4**

During interviews and interrogations involving criminal investigations, officers will properly inform defendants of their rights, commonly referred to as the Miranda Warnings, which includes the right to not answer questions or make statements, and the right to counsel. Officers will not infringe upon the constitutional rights of any person.

Officers are responsible for advising suspects of their constitutional rights based on guidelines from the United States and Washington State Supreme Courts and other courts of applicable jurisdiction.

Once suspects have invoked their right to counsel, all interviews will end until they have an opportunity to consult with an attorney. After consulting with their attorney, suspects may request contact with the investigating officer. Before the re-contact, suspects are to be re-advised of their rights.

Defendants held in custody will be made available for arraignment or any court mandated hearing at the earliest time possible or as local court rules require.

**1.2.4**                    **Searches Without Warrants****WASPC Standard 2.5**

Kennewick Police officers have the authority to conduct searches and make seizures without a warrant in the following circumstances:

A. Search by Consent

The consent must be “voluntary” and be granted by a person having the authority to give consent. The search must be limited to the scope of the consent granted. Kennewick Police officers are encouraged to have the party giving consent sign the “consent to search” form.

B. Stop and Frisk

The narrow scope of the Terry exception permits the officer to briefly detain, for limited questioning, a person whom the officer reasonably suspects of criminal activity and to frisk the person for weapons if the officer has reasonable grounds to believe the person to be armed and dangerous. There is no automatic right to do a pat-down search: there must be a reasonable suspicion of weapons or danger. The suspicion of dangerousness must focus particularly on the individual to be searched, not simply on the area in which they were located.

C. Movable Vehicles

In Arizona v. Gant (April 2009), the U.S. Supreme Court held that routine searches of automobiles incident to arrest are no longer valid. This ruling applies to all the states, including Washington, and invalidates the former ‘bright-line’ rule that allowed blanket searches of automobiles incident to arrest.

In State v. Valdez, (Dec. 2009), the Washington State Supreme Court further limited law enforcement’s ability to search automobiles incident to arrest and without a warrant.

**Under the new law, police may search a vehicle incident to arrest only when:**

**The search is necessary to preserve officer safety or to prevent destruction or concealment of evidence of the crime of arrest.** This exception is likely to apply only in unique situations where the suspect is under arrest yet unsecured, and poses a danger to officers by his ability to

access the passenger compartment to obtain a weapon or destroy evidence. In all cases where the suspect is secured and cannot access the passenger compartment, search of the automobile incident to arrest is not allowed without a valid search warrant. *[Note: Washington law is more restrictive than federal law and does not allow officers to conduct warrantless searches on the reasonable belief that evidence of the arresting crime will be located in the vehicle.]*

If a circumstance arises where a warrantless search is justified as described above, the entire passenger compartment may be searched for weapons or destructible evidence, including any unlocked containers. Again, routine searches that used to occur as a matter of course are no longer allowed.

#### D. At the Scene of a Crime

The United States Supreme Court has ruled there is no exception to the 4th Amendment for crime scene searches. However, in responding to a homicide or serious assault scene, officers may:

1. Make a warrant less entry where they reasonably believe a deceased or injured person will be found. A suspected dead body may still be alive and entry is justified under the exigent doctrine.
2. Examine the body itself.
3. Search the premises for other victims or suspects.
4. Seize any evidence in plain view while inside the residence pursuant to any of the above permissible activities.
5. Secure the crime scene and apply for a search warrant to conduct a thorough crime scene investigation.

#### E. Public Safety, Exigent Circumstances

The general rule for a search via exigent circumstances is that the police must have specific and articulable facts, along with reasonable inferences to believe an exigency exists. Such as destruction or removal of evidence, normally based upon prior information known to police or police are confronted with some sort of sound or activity alerting them to the possible existence of an exigency justifying immediate entry.

#### F. Inventory Searches of Seized Vehicles

Any vehicle lawfully in the custody of the Kennewick Police Department shall be examined and its contents inventoried for the protection of the owner, the officer, the department, and the tow operator. During the inventory, if property is discovered that is (a) contraband or (b) the probable fruits or instruments of a crime, the property shall be listed on the investigation report and shall be processed appropriately and enter into property and evidence. An inventory, without exception, will include the inventorying of all contents of the vehicle trunk, the console, the glove box, and all containers found in every lawfully impounded vehicle, provided that the contents of such containers cannot be determined from examining the exterior of the containers.

All items of value shall be listed in the inventory section of the vehicle impound/waiver report, and items of substantial value may be placed into evidence for safekeeping at the officer's discretion. Items identifiable by a unique serial number should be recorded on the inventory record by that number and checked through **WACIC**.

A specific notation shall be made when an area is not inspected or inventoried.

The inventory shall be completed prior to the release of the vehicle for towing. Officers shall note on the vehicle impound/waiver report if an investigatory hold has been placed on the vehicle.

G. Search Incident to Arrest

Once a person has been arrested, there is a diminished expectation of privacy of the person, which includes personal possessions closely associated with arrestee's clothing. The person may be searched for weapons, contraband, fruits and instrumentalities of the crime.

H. Search via Plain View

The general rule for a plain view exception is immediately apparent, subject to seizure, items which come into view of the officer lawfully searching in connection with another crime or who otherwise has a right to be where the officer is.

I. Protective Sweep

The 4th Amendment permits a warrantless protective sweep in conjunction with an in-home arrest, extending only to a cursory inspection of those spaces where a person may be found, lasting no longer than is necessary to dispel the reasonable suspicion of danger and in any event no longer than it takes to complete the arrest and depart the premises. Such a protective sweep may be conducted when the searching officer possesses a reasonable belief based on specific and articulable facts which, taken together with rational inferences from those facts, would warrant a reasonably prudent officer in believing that an area to be swept harbors an individual posing a danger to those officers present.

**1.2.5 Arrests With / Without Warrants**

**WASPC Standard 2.3**

Kennewick Police officers are required to apply all applicable legislative and case law when making an arrest with or without a warrant.

Arrests with warrants: In applying for and executing arrest warrants, officers will abide by relevant statutes and department procedures. In serving arrest warrants on individuals, officers will proceed to secure the custody of individuals in an efficient manner and with due regard for safety. When serving warrants out of jurisdiction, officers will notify the local police department of the intention to serve the warrant and request their cooperation.

When executing arrest warrants at private residences where consent to enter has been denied, Kennewick Police officers may force entry into the primary residence of the subject of the warrant as long as the warrant has been confirmed, and the officer has reasonable grounds to believe the subject of the warrant is presently there.

If forced entry of a third party residence is necessary, the arrest warrant needs to be confirmed and the officer must also have a search warrant for the third party residence.

Arrests without warrants: **RCW 10.31.100** governs when a police officer may make a warrant less arrest.

A. Felonies

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant.

B. Misdemeanors

A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer.

C. Non-View Misdemeanors

Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor shall have the authority to arrest the person:

1. If the misdemeanor involves physical harm, or threats of physical harm, to persons or property.
2. If the misdemeanor involves the unlawful taking of property.
3. If the misdemeanor involves the acquisition, possession, or use of alcohol or cannabis/marijuana by a person under the age of 21 years.
4. If the misdemeanor involves criminal trespass.
5. If the misdemeanor involves the violation of a restraining order, no contact order or an anti-harassment order or any other court order issued under authority of **RCW 10.99**, **RCW 26**, or **RCW 10.14**, provided that, the respondent is aware of the order restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care or, in the case of an order issued under **RCW 26.44.063**, imposing any other restrictions or conditions upon the person.
6. If the misdemeanor involves a person 16 years or older and within the preceding four hours has assaulted a family or household member as defined in **RCW 10.99.020** and the officer believes:
  - a. An assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or
  - b. That any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor.
7. If the offense involves any act of indecent exposure, as defined in **RCW 9A.88.010**.
8. If the offense involves the negligent operation of a vessel, or operation of a vessel while under the influence of intoxicants, as defined in **RCW 88.02.095**.
9. If it is one of the following traffic offenses: **(RCW 46.61)(RCW 46.20)**
  - a. Hit and run, unattended.
  - b. Hit and run, attended.
  - c. Reckless driving or racing.
  - d. Driving while intoxicated or physical control while intoxicated.
  - e. Negligent driving.

- f. Driving while license suspended or revoked.
- 10. An officer investigating at the scene of a motor vehicle accident may arrest or cite, as applicable, the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.
- 11. If requested by a law enforcement officer, in whose presence a traffic infraction was committed, to stop, detain, arrest or issue a notice of traffic infraction to the driver whom is believed to have committed the infraction.
- 12. If there is probable cause to believe that a person has, within 24 hours of the alleged violation, committed a violation of **9A.50.020**, Interference with Health Care Facility.
- 13. If there is probable cause to believe that a person illegally possesses or has illegally possessed a firearm or other dangerous weapon on private, public elementary, or secondary school premises officers shall have the authority to arrest the person. The term "firearm" has the meaning defined in **RCW 9.41.010**, and the term "dangerous weapon" has the meaning defined in **RCW 9.41.250** and **9.41.280**(1)(a) through (e).

## **1.2.6**                    **Alternatives to Arrest**

Officers of the Kennewick Police Department, when attempting to resolve the various types of problems to which they respond, are encouraged to seek alternatives to physical arrest (with incarceration) when no hazard(s) to the community, victim or suspect will result.

### **1.2.6.01**

As outlined in Standard 1.2.7.00, officers of this Department are allowed the use of discretion within the guidelines of Department standards, statutory and case law.

When the safety of the groups mentioned in Section .01 can be maintained and no other exceptional circumstances exist, officers resolving misdemeanor/gross misdemeanor situations necessitating formal action may do so by means of cite and release (see 1.2.6.03).

### **1.2.6.02**

Officers will exercise arrest powers in valid felony situations. Dependent upon the felony offense and prosecutorial approval, certain felony arrestees may be released pending further court proceedings without being formally incarcerated.

### **1.2.6.03**

Officers may exercise the concept of "verbal warning" on those traffic and misdemeanor/gross misdemeanor offenses where the facts indicate proper resolution of the event can be achieved without formal charge.

- A. This discretionary action may be restricted by the supervisor or Department administration in those areas of directed patrol or;
- B. Selective traffic enforcement requiring stricter attention to enforcement.
- C. Officers should not use a "verbal warning" to evade resolving a situation properly.

- D. Supervisors will properly ensure that each incident response and resolution will be properly documented.

#### **1.2.6.04**      **Pretrial Release**

There are times when an officer may choose to issue a citation for a criminal offense. In this case the citation is to be issued and the subject released, without being booked.

#### **1.2.6.05**

Many arrest situations can be successfully resolved without immediate incarceration. Officers can release an arrestee, before or after the booking process, under the following conditions:

- A. The crime is a misdemeanor or non-violent felony (crime against property).
- B. The suspect poses no threat to the victim, community, or self.
- C. The suspect does not pose a high risk of fleeing the area.
- D. If a felony, and the case requires further investigative work before filing charges.
- E. The subject lives in a close proximity to the court of jurisdiction.
- F. If the subject has no prior arrests for similar offenses.

#### **1.2.7**      **Use of Discretion**

One of the most critical aspects of the use of police authority is in the area of discretion. The use of discretion can be a highly successful tool to resolve problems and conflicts, but only if used properly. Discretion must be considered as a two edged sword, i.e., in the wrong hands it can become an instrument of unprofessional conduct.

Discretion becomes necessary for a myriad of reasons. Officers must differentiate between ambiguous and obsolete laws, the effects of enforcement on community relations, the effectiveness and efficiency of the overall operation, and the role of police in society.

#### **1.2.7.01**

Kennewick Police officers are allowed the use of discretion in many areas, such as to arrest or release on minor violations, to cite a traffic violator or release with a verbal warning, to settle minor disputes, and in many other areas. Discretion is practiced with selective enforcement, directed patrol, and targeted violations.

#### **1.2.7.02**

This department; however, recognizes limitations to this power. As such, officers must clear many decisions of an enforcement nature through a supervisor, such as potential arrests in gross misdemeanor or felony situations, and any potentially sensitive area, and in those areas defined by standards by the department as well as the Benton County Prosecutor's Office and or the City Attorney. The City Attorney or Benton County Prosecutor will make the final decision on whether to charge or not.

#### **1.2.7.03**

Officers do not have any discretion when given a lawful order by a supervisor, or when dealing with compliance of Rules and Regulations, or specific laws mandating certain actions by police.

**1.2.7.04**

Supervisors and Division Commanders are allowed discretion, not otherwise limited, as found in their job descriptions and memoranda from the Chief of Police or his/her designee.

**1.2.8**

**Strip and Body Cavity Searches**

**WASPC Standard 2.6**

Strip searches shall be defined as having a person remove or arrange some or all of his or her clothing so as to permit an inspection of the genitals, buttocks, anus, or undergarments of the person, or breasts of a female person.

**1.2.8.01**

Strip searches shall only be conducted when there is a reasonable suspicion to believe that:

- A. A prisoner is concealing weapons or instruments of escape; or
- B. Evidence which could otherwise be concealed or destroyed such as narcotics; or
- C. If the search is necessary to discover or confirm a health condition requiring immediate medical attention.

**1.2.8.02**

Strip searches should occur only with the prior knowledge and authorization of the shift supervisor, with strip searches generally being limited to the following:

- A. Those prisoners who cannot be bailed or bonded out, or released on personal recognizance;
- B. prisoner with a commitment;
- C. Any prisoner being detained on a Governor's warrant;
- D. Prisoners with immigration holds;
- E. Prisoners with military holds;
- F. Prisoners with parole suspensions or revocations, or probation holds;
- G. Any subjects in custody on the below listed charges:
  - 1. Aggravated Murder - 1st or 2nd degree;
  - 2. Murder - 1st or 2nd degree;
  - 3. Manslaughter - 1st or 2nd degree;
  - 4. Arson - 1st degree;
  - 5. Assault - 1st or 2nd degree;
  - 6. Burglary - 1st or 2nd degree;

7. Extortion - 1st or 2nd degree;
8. Indecent Liberties;
9. Kidnapping - 1st degree;
10. Rape - 1st or 2nd degree;
11. Statutory Rape - 1st degree;
12. Robbery - 1st or 2nd degree;
13. Any felony arrest for a violation of the Uniform Controlled Substances Act under Chapter 69.50 of the Revised Code of Washington.

H. Other conditions may exist where a supervisor may authorize a strip search based on the nature of the offense for which the person was arrested, his/her prior criminal record, and the physically violent behavior exhibited during or after the time of arrest.

### **1.2.8.03**

Any strip search conducted shall only be conducted in a private area not exposed to observations by any persons not conducting the search. Persons unnecessary for the search shall not be present unless the prisoner requests his or her presence. This other person cannot, however, be another prisoner or subject held in custody on criminal charges. The strip search shall be conducted or observed only by a person of the same sex as the person to be searched, and the officer conducting the strip search shall not touch the person being searched, except as necessary to effect the search.

### **1.2.8.04**

Body cavity searches will be completed only when authorized by a valid Search Warrant issued by a court of jurisdiction, and with the knowledge and authorization of the Shift supervisor.

A body cavity search shall be defined as the touching or probing of a person's body cavity whether or not there is actual penetration of the body cavity. Body cavity shall mean the stomach or rectum of a person and the vagina of a female person.

Body cavity searches are not customary and will only be based on probable cause to believe that:

- A. A prisoner is concealing weapons; or
- B. A prisoner is concealing evidence, which could otherwise be concealed or destroyed, such as narcotics.

Body cavity searches, as well as pre-search undressing and post-search dressing shall occur at a location made private from the observation of persons not physically conducting the search.

Body cavity searches must be performed under sanitary conditions and conducted by a physician, registered nurse, or physician's assistant, licensed to practice in this state, and who is trained in the proper medical process and the potential health problems associated with a body cavity search.

As necessary, police officers of the same sex as the person to be searched may be present but will not participate in the actual search itself beyond an evidence collecting and advisory capacity. The person to be searched may request that a second party be present during such a search so long as that person is not in custody, or does not pose a security risk.

**1.2.9**

**Impartial Policing**

**WASPC Standard 13.3**

The Kennewick Police Department is committed to unbiased policing and to reinforce procedures that serve to ensure the public we are providing service and enforcing laws in a fair and equitable manner.

- A. No person shall be singled out or treated differently as a consequence based on any of the criteria listed herein (RCW 49.60.010):
  - 1. Race
  - 2. Creed
  - 3. Color
  - 4. National Origin
  - 5. Families with children
  - 6. Sex
  - 7. Status
  - 8. Sexual Orientation
  - 9. Age
  - 10. Honorably Discharged Veteran or military status
  - 11. Any person with the presence of any sensory, mental, or physical disability
  - 12. The use of a trained dog guide or service animal by any person with a disability
  - 13. The illegal use of the fact that a person rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without a legal basis under the United States Constitution or Washington State Constitution (RCW 43.101.419)
- B. All investigative detentions, traffic stops, arrests, searches and seizures of persons and / or property by officers will be based on a standard of reasonable suspicion or probable cause as required by the Fourth Amendment of the U.S. Constitution and Article 1, Section 7 of the Washington State Constitution. Officers must be able to articulate specific facts, circumstances and conclusions which support probable cause for arrest or reasonable suspicion for the traffic stop or investigative detention.
- C. Except as provided in this paragraph, officers shall not consider any of the criteria listed in Paragraph A above in establishing either reasonable suspicion or probable cause.

- D. Officers may take into account the reported race, ethnicity, gender or national origin of a specific suspect(s) based on credible or reliable information that links specific suspected unlawful activity to a particular individual or group of associated individuals of a particular race, ethnicity, gender or national origin, in the same way they would use specific information regarding age, height, weight, etc. about specific suspects.

**1.2.9.01**      **Preventing Perceptions of Biased Policing**

- A. To help prevent perceptions of biased law enforcement, officers will utilize the following strategies when conducting investigative detentions, traffic stops, arrests, searches and seizures of persons and /or property:
  - 1. Be courteous, polite and professional.
  - 2. Explain the reason for the stop or detention as soon as practical, unless providing this information will compromise the investigation or the safety of officers or others.
  - 3. Ensure the length of the detention is no longer than necessary to take appropriate action.
  - 4. Answer any questions the subject individual may have, including explaining options for the disposition of a traffic citation, if relevant.
  - 5. Provide your name, if or when requested, in writing and preferably on a business card.

**1.2.9.02**      **Compliance**

Any reported violations of this policy will be investigated and may result in disciplinary action as set forth in the Department's Rules and Regulations.

**1.2.9.03**      **Supervisors and Accountability**

Supervisors shall ensure all personnel of their command are familiar with the content of this policy and are operating in compliance at all times.

Annually, the Chief of Staff Commander will review agency practices, including any citizen concerns raised in the prior year and report any incidents to the Chief of Police.

**1.3.1**      **Use of Force Policy**

**WASPC Standard 3.1**

The Kennewick Police Department's highest priority is safeguarding the life, dignity and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This section of policy builds upon the Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 386. This Department's Canon of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining transparency with the community and safeguarding the public's trust.

The purpose of the policy is to guide an officer's decisions regarding the use and application of force to ensure such applications are used only to effect arrest or lawful detentions or to bring a situation under legitimate control and assist the Department in achieving its highest priority. No policy can

anticipate every conceivable situation or exceptional circumstance that officers may face. In all circumstances, officers are expected to exercise sound judgment and critical decision making when using force options.

## A. POLICY

1. **SAFEGUARDING HUMAN LIFE AND DIGNITY.** The authority to use force is a serious responsibility given to peace officers by the people who expect them to exercise that authority judiciously and with respect for human rights, dignity and life.
2. **DE-ESCALATION.** Officers shall, when feasible, employ de-escalation techniques to decrease the likelihood of the need to use force during an incident and to increase the likelihood of voluntary compliance. Officers shall when feasible, attempt to understand and consider the possible reasons why a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable officers to calm the subject and allow officers to use de-escalation techniques while maintaining public and officer safety.
3. **PROPORTIONALITY.** When determining the appropriate level of force, officers shall, when feasible, balance the severity of the offense committed and the level of resistance based on the totality of the circumstances known to or perceived by the officer at the time. It is particularly important that officers apply proportionality and critical decision making when encountering a subject who is armed with a weapon other than a firearm.
4. **DUTY TO INTERVENE.** When in a position to do so, officers shall intervene when they know or have reason to know, that another officer is about to use, or is using, unnecessary force. Officers shall promptly report any use of unnecessary force and the efforts made to intervene to a supervisor.
5. **FAIR AND UNBIASED POLICING.** Members shall carry out their duties, including the use of force, in a manner that is fair and unbiased.

The protection of life is at all times more important than either the apprehension of criminal offenders or the protection of property. The officer's responsibility to protect life must include his/her own life.

The use of deadly force is authorized by RCW 9A.16.020 and 9A.16.040. In all cases, use of force is limited to the reasonable amount of force necessary to lawfully accomplish the arrest, overcome resistance to arrest, and defend themselves or others from harm or to control a situation. Facts unknown to an officer, no matter how compelling, cannot be considered in later determining whether the use of deadly force was justified.

When the use of force is necessary, the degree of force used should be progressive in nature and in direct relationship to the amount of resistance used by the person, or the immediate threat the person poses to the member or others. This force may be in the form of advice, warnings, persuasion, verbal commands, physical contact, use of less-than-lethal weapons or the use of deadly force.

Handcuffing is not considered as a use of force but rather a restraint.

### 1.3.1.01      Use of Force Continuum

- A. Mere Presence\*
- B. Verbal Commands\*
- C. Escorting\*
- D. Pepper Spray
- E. Level 1 tactics
- F. Level 2 tactics
- G. Impact weapon
- H. Lethal Force

\*not considered a use of force for reporting purposes

### **1.3.1.02**      **Use of Chokeholds or Lateral Vascular Neck Restraints**

Neck chokeholds are considered deadly force. Lateral vascular neck restraints are considered potentially deadly force. Use of chokeholds or lateral vascular neck restraints by members of the Department will only be used when deadly force is authorized.

For the purpose of this policy, a chokehold is any physical hold applied to the neck of another person, which is intended to inhibit breathing by compressing the airway in the neck, by the officer's use of hands, arms, or any other instrument.

For the purpose of this policy, the Lateral Vascular Neck Restraint is a physical hold applied to the neck of another person, which is intended to inhibit blood flow through the carotid arteries of the neck by exerting pressure to one or both sides of the neck through the officer's use of hands, arms, or any other instruments.

### **1.3.2**                      **Limitations of Use of Deadly Force**                                      **WASPC Standard 3.2**

Deadly force may only be used under the following circumstances:

When reasonably necessary to protect the officer(s) or others from what he or she reasonably believes is an imminent threat of death or serious bodily injury.

Firearms, weapons, and other tactical devices will be handled only as necessary and always in such a manner as to not cause unwanted danger to oneself or to others.

Verbal Warning – If feasible, and if doing so would not increase the danger to the officer or others, an officer should give a verbal warning to submit to the authority of the officer before discharging a firearm or using deadly force.

#### **1.3.2.01**

The discharge of firearms is permitted under any of the following circumstances:

- A. For training purposes at an approved range.

- B. To dispose of a seriously injured or dangerous animal, after a supervisor or command officer have approved the action. In an emergency situation, an officer may use his/her discretion.
- C. In defense of yourself or of another person from the imminent threat of death or serious injury. Any shot(s) fired in accordance with the regulations of the department are to be fired for effect.

**1.3.2.02**      Definitions:

A. **“Force”**

Any act aimed at detention or control. Actions taken through the use of a person’s body, weapons, equipment, and/or other instruments, to assist in controlling a situation or the behavior of others.

B. **“Progressive Force”**

The escalation of force used in order to control a situation or the behavior of others, from minimal to maximum (i.e., verbal force, physical force, less-than-lethal force, deadly force).

C. **“Deadly or Lethal Force”**

The intentional application of force by whatever means imposed, reasonably likely to cause death or serious physical injury.

D. **“Necessary”**

“Necessary” means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force to be used is reasonable to accomplish the lawful purpose intended.

E. **“Member”**

Any full-time or part-time employee, or any volunteer, while directly acting as an agent of the City of Kennewick Police Department.

F. **“Officer”**

“Officer” means a commissioned officer of the City of Kennewick Police Department, full-time and Reserve.

G. **“Reasonable belief”**

“Reasonable belief” is defined as: When facts or circumstances the officer knows at the time of the incident, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

H. **“Great bodily harm”**

“Great bodily harm” is injury that creates a probability of death or which causes significant, permanent loss or impairment of the function of any bodily part or organ. (As described in **RCW 9A.04.110**)

I. **“Arm Bar Choke Hold”**

The “Arm Bar Choke Hold” is a method of controlling the suspect by approaching from behind and then placing the officer’s forearm under the suspect’s chin avoiding the windpipe, brining pressure against the windpipe and causing the suspect to cease resistance due to lack of air.

J. **“Carotid Submission Hold”** (Also known as lateral vascular neck restraint)

“Carotid Submission Hold” is any hold that restricts the flow of blood to the brain, and renders the subject unconscious.

K. **“Imminent”** or **“Immediate”**

“Imminent” or “Immediate” means likely to happen without delay.

**1.3.3**                    **Warning Shots**

**WASPC Standard 3.2**

Under no circumstances are warning shots to be fired. **Warning shots are prohibited.**

**1.3.4**                    **Less Lethal Weapons**

**WASPC Standard 3.3**

To successfully deal with situations requiring justifiable use of force, and minimize risk to the public and the officer(s) involved, certain less than lethal weapons are authorized for use by department members. These weapons are:

- A. Batons/Impact Weapons authorized by the Chief or his/her designee
- B. Defensive Spray (OC Spray)
- C. Electronic Control Weapons – (TASERS)
- D. Other less lethal weapons as authorized by the Chief or his/her designee

No other weapons are authorized.

**1.3.4.01**

Officers may not carry any weapon(s) prior to receiving formal training from a certified instructor and the Chief of Police or his/her designee approves use of the device in writing.

Officers will receive biennially retraining with less than lethal weapons. This re-training will be noted in the department training files.

**1.3.4.02**

Less than lethal weapons will only be used in arrest situations or where physical confrontation occurs. The decision not to arrest after an application of a less than lethal weapon should be made by a first line supervisor or above.

**1.3.4.03**                    **Less-Lethal Projectiles**

This policy addresses the training and use of extended range less-lethal projectiles. The Kennewick Police Department recognizes that combative, non-compliant, armed and/or violent subjects cause handling and control problems that require special training and equipment. This department has adopted the less lethal force philosophy to assist with the de-escalation of these potentially violent confrontations.

**1.3.4.04**                    **Definitions**

A. Less-Lethal Philosophy:

A concept of planning and force applications, which meets operational objectives, with less potential for causing death or serious injury than conventional police tactics.

B. Kinetic Energy Impact Projectiles:

Flexible or non-flexible projectiles which are intended to incapacitate a subject with minimal potential for causing death or serious physical injury when compared to conventional projectiles.

C. 37mm Non-Flexible Kinetic Energy Impact Projectiles

Authorized less-lethal 37mm rounds consist of a non-flexible polyurethane projectile, weighing 77.5 grams. The projectile exits the barrel at approximately 240 feet per second and delivers approximately 153 ft. /lbs. of energy upon impact.

**1.3.4.05**      Safety Priorities

The department priorities are established as follows:

- A. Hostages
- B. Involved citizens
- C. Police officers
- D. Suspects/subjects

**1.3.4.06**      Training

All commission members of the department will be trained in the concepts of less-lethal force philosophy and in the use and deployment of 37mm non-flexible kinetic energy impact projectiles. Members of the SWAT Team shall additionally be trained in the use and deployment of other types of flexible and non-flexible kinetic energy impact projectiles. Refresher training will be provided on a biennial basis.

**1.3.4.07**      Deployment

Whenever possible, officers deploying less lethal munitions should notify a supervisor, preferably by radio. The supervisor notification will also advise other officers less lethal munitions may be deployed.

Less lethal munitions may be deployed for the purpose of controlling persons being arrested or detained in situations where an officer's physical safety is threatened or where an officer feels the chances of injuring a subject are greater with other forms of force. In all circumstances, deployment of these munitions will comply with the concepts outlined in Section 1.3.1.00 of this manual. Less lethal munitions are considered impact weapons, similar to straight stick batons and other impact weapons represented in the use of force continuum Section 1.3.1.01.

**1.3.4.08**      Target areas

Target areas are established with the intent of reducing the likelihood of death and/or serious physical injury to the suspect/subject, while at the same time maximizing the effectiveness of the munitions being deployed. When engaging a target, the officer should evaluate the effectiveness of each round during the volley. Compliance and/or incapacitation is the desired goal, and alternative target areas should be considered when

rounds are not effective. Alternative target area consideration will be based on the circumstances the officer is encountering and the established department safety priorities.

#### Primary Target Areas

- A. Large muscle groups of the legs, buttocks
- B. Hands/arms
- C. Pelvic girdle

#### Secondary Target Areas

- A. Abdominal area

#### Tertiary Target Area

- A. Chest area
- B. Side/lower back (not spinal column)

#### Lethal Target Areas

- A. Head/neck
- B. Spinal column

#### **1.3.4.09**

The use of kinetic energy impact projectiles is considered a use of lethal force, if intentionally deployed at the head, neck or spinal column areas. Such deployment will comply with the department policy on use of lethal force. If not intentionally deployed at a lethal target area, use of the projectiles is considered an impact weapon on the Use of Force Continuum.

Direct pointing of a less lethal munitions equipped weapon is considered a use of force. If a less lethal munitions weapon is discharged, except at an approved range for training purposes, a Use of Force Report will be completed by the on-duty supervisor and forwarded through the chain of command.

#### **1.3.4.10**      Medical Treatment

#### **WASPC Standard 3.4**

The potential for causing death or serious physical injury with these projectiles is a reality. For this reason, each suspect/subject with kinetic energy impact projectiles will be taken to an appropriate facility for an examination for potential closed injuries and any other treatment that is deemed necessary by the attending medical personnel.

#### **1.3.4.11**      Use of Chemical Agents

The only chemical agent authorized for routine use by Kennewick Police officers is department-issued pepper spray. Chemical agents other than pepper spray are to be used only by officers who have been specifically trained in their use.

Supervisory approval for the use of pepper spray is not required, however, it is recommended when circumstances allow. A Use of Force Report will be completed whenever pepper spray or chemical agents are employed. Every effort will be made not to pepper spray a person in physical custody. Cool, clean water should be used to rinse the contaminated area of the person(s) who have come in contact with the pepper spray as soon as practical.

Both the use of the Pepper Spray and any first aid given to the suspect(s) shall be documented in the incident report. A copy of the report and a Use of Force Report form shall be directed to the officer's Division Commander, the Training Division, and Office of Professional Standards.

#### **1.3.4.12      Conducted Energy Weapon (CEW) – TASERS**

It is the policy of the Kennewick Police Department to use only that level of force reasonably necessary to lawfully accomplish the arrest, overcome resistance to arrest, defend themselves from aggression, or to control a situation or otherwise subdue violent or potentially violent individuals. Only officers who have satisfactorily completed this agency's approved training course shall be authorized to carry CEW's.

##### **A. Definitions**

###### **1. Aggression**

A threat or overt act of an assault, through physical or verbal means, coupled with the apparent ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

###### **2. Resistance**

Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being detained or taken into custody.

###### **3. AFID**

"Anti-Felon Identification" system provides accountability for each use of the CEW device via the dispersal of tiny unique coded tags every time the device is "*probe deployed*" – a cartridge is discharged.

###### **4. Cartridge**

Refers to an Air Cartridge manufactured by TASER International, Inc. specifically for use with the Taser M26, X26, X26P, X2 and/or X7.

###### **5. Detainee**

Refers to a person who is housed in a detention center, correctional facility, or other facility for the incarceration (temporary or long-term) of individuals.

###### **6. Conducted Energy Weapons**

Electronic control device, is a conducted energy device. The CEW is a hand-held unit that can be used in two (2) modes:

###### **a. "Probe Deployment" or "Probe Mode"**

Utilizing compressed nitrogen gas to propel two (2) darts on wires from a cartridge a maximum of thirty-five (35) feet (depending on the type of cartridge). The CEW sends an electrical signal to the probes, via small wires, which can disrupt the subject's body's ability to communicate messages from the brain to the muscles and likely (depending upon many factors, including the distance between the probes, probe placement, the depth of clothing on the person, etc.) usually causes motor-skill dysfunction.

b. **Touch Stun** (a.k.a. “drive stun”)

Acting as a touch-stun system when the CEW is brought into immediate or close proximity, contact with a subject’s body, or clothing. “Touch stun” only creates discomfort, due to the narrow spread of the CEW probes; touch-stun application will likely not create motor-skill dysfunction. There are two modes of “drive stun”

- I. “Drive stun” utilizing probes on front on the CEW with cartridge removed and,
- II. “Three-point deployment” where probes are deployed from the CEW into the subject from close distance and the drive stun is utilized by bringing the CEW with cartridge still attached in contact with the subject’s body.

7. **CEW Records Custodian**

The Department designated person responsible for collecting and maintaining CEW records.

8. **CEW - The Advanced TASER CEW** (either X26 as manufactured by TASER International, Inc.) is a CEW use-of-force (“UOF”) tool.

9. **CEW use:**

a. **“CEW Displayed:”**

The CEW is withdrawn from the holster and visible to the subject. The subject complies, or the incident concludes, without further use of the CEW.

b. **“CEW Laser Painted:”**

The CEW’s laser is activated and pointed in the direction of the suspect and in response to the Laser painting, the suspect complies, or the incident concludes, without further use of the CEW.

c. **“CEW Demonstrated:”**

The CEW is withdrawn from the holster, the air cartridge removed and the electrical arcing is demonstrated to the subject to attempt to gain voluntary compliance.

d. **“CEW Deployed:”**

The CEW probes contact the subject’s body or clothing and/or a method of drive stun is used to attempt to gain compliance.

- I. Probe Deployment, or Probe Mode
- II. Touch Stun or Drive Stun Mode

10. **Officers**

As used in this policy refers to certified law enforcement officers, who are trained and authorized to carry and use a CEW under the authority of this Department.

11. **Sensitive Areas**

Sensitive areas of a person's body include areas such as the face, neck, groin or female's breast.

**12. Sudden short-term discomfort**

CEW application generally causes an overwhelming instantaneous sensation of discomfort and can result in loss of voluntary muscle control. This overwhelming instantaneous discomfort usually ceases and dissipates almost immediately upon discontinuance of CEW discharge.

**B. CEW Issuance / Inspection / Use Histories / Care**

**1. Authorized CEWs**

Officers may only carry and use the **X26, X26P, X2 or X7 TASER** CEWs.

**2. CEW Issuance Records:**

a. Specific officer(s) Issuance:

- I. A record will be kept of all CEWs, their serial numbers, and which officers the CEW has been issued to.
- II. The Department shall designate a custodian of CEW records, the person responsible for collecting and maintaining all CEW records.
- III. Shift or Changing CEW Issuance

A check-in / check-out procedure will be established for partial or changing CEW issuance.

**3. CEW Cartridges:**

- a. Officers may only carry and use appropriate TASER International, Inc. manufactured cartridges.
- b. A record of CEW cartridge serial numbers will be maintained by the Department. The log will be available for audit as deemed necessary by the Department. These logs shall be collected and maintained by the Training officer / Unit.

**4. No Alternations/Modifications**

No changes, alterations, modifications or substitutions shall be made to the CEW or the cartridges. All repairs to CEWs or accessories shall be completed by a Department authorized armorer or vendor. CEW repairs shall be documented and the Training Unit shall maintain the records.

**5. Officers' Responsibility for Damaged CEW/Cartridge**

Officers who are issued a CEW and cartridges are solely responsible for reporting to their supervisors promptly after learning the CEW or the cartridges are damaged and in need of maintenance or repair. The supervisor will forward the damaged CEW/cartridge to the Training officer and provide, as reasonable, replacements to the officer.

## 6. **CEW Returned**

In the event that a CEW is returned for repairs or is no longer utilized for Department use the use history of that particular CEW will be downloaded using the data port access and appropriate software. The Department Administrative Services Division will maintain the use history for a period of three (3) years from the date the CEW was taken out of service.

## 7. **CEW Inspection Prior to Shift**

Prior to officers (carrying CEWs) commencing their shifts, the officers shall:

- a. Briefly test arc (**for five (5) seconds** - to observe the current battery condition and proper function) the CEW in a safe manner as prescribed by Taser International for the model in question.
- b. Visually inspect the CEW and the cartridges for noticeable wear or damage.

## 8. **CEW Use Histories**

CEW use histories will be run on each CEW **at least every six (6) months, or as necessary**. Mandatory CEW use history reports include:

- a. Following claims of excessive force by CEW application,
- b. Hospitalization of the CEW subject following CEW application,
- c. A death associated with CEW usage, and
- d. Claims of excessive numbers of CEW discharges.

## 9. **Dataport Tracking, Maintenance and Care**

The CEW records custodian is the primary person responsible for maintaining and caring for the CEW. This person shall:

- a. Upon CEW discharge notification as previously outlined within this policy, download the discharge memory of the involved CEW.
- b. Log and track CEWs and cartridges.
- c. Conduct inspections of CEWs.
- d. Order and maintain adequate cartridges and supplies.

## 10. **Reasonable CEW Protection**

The CEW is a highly sophisticated piece of electronic equipment that operates on batteries. Therefore, officers shall reasonably protect the CEWs and the cartridges from:

- a. Water, rain, snow, etc.
- b. Temperature extremes. Cold temperatures can negatively affect battery life, usability, and effectiveness. Officers should reasonably insulate CEWs and cartridges from being unnecessarily exposed to cold conditions.

- c. Unreasonable exposure to dust, dirt, mud, etc.
- d. Unreasonable risk of theft.
- e. Unreasonable exposure to inclement CEW storage conditions (e.g., avoid storing a CEW in a vehicle where it could be unreasonably subject to theft).
- f. Unreasonable accessibility to people other than members of this Department.

**C. CEW Training and Certification**

**1. CEW Training**

All members of the Department who carry and/or use an CEW must first successfully complete a Department approved and mandated CEW familiarization program, to include written and practical tests.

**a. CEW Re-Certification**

A mandatory annual re-certification program will be successfully completed.

**b. 35' Cartridge Training**

Any member of the Department who will use a 35' cartridge must receive special training and be qualified regarding the foreseeable trajectory of cartridge deployment.

**2. Certified Instructors**

All Department CEW certification programs will be presented by a TASER International, Inc. certified (or equivalent) CEW instructor. The CEW instructor must be certified to instruct on the use of models being used such as the M26, X26, X26P, X2 and the X7.

**3. Department's Discretion**

The Department's CEW training programs, just like its operational policies, procedures, and guidelines, are solely at the discretion and responsibility of the CEW trainers and management, but ultimate authority rests with the Chief of Police.

**4. Training Records**

The Department shall maintain CEW training and certification records.

**5. Verbal Commands**

In an attempt to minimize the number of CEW discharges needed for subject compliance, officers should, while deploying the CEW, reasonably direct (order) the suspect as the incident mandates. Such verbal commands may include, "*stop resisting*," "*lie flat*," "*put your hands behind your back*," etc.

**6. Drive-Stun Mode (or "Touch-Stun")**

The use of a CEW in "drive-stun" mode, while only utilizing the electrodes at the front of the Taser (with the cartridge removed if the device requires), will not reliably or foreseeably incapacitate the subject. Officers will not use CEWs in drive-stun mode if they reasonably

believe the discomfort will not cause the subject to be compliant with the officers, e.g. CEW use in drive-stun mode on a “drug induced highly pain-resistant” subject.

It is possible to apply a drive stun with a live cartridge, “three-point deployment” and this may be an effective technique. The close probe spread will likely not have an NMI effect. The officer may leave the deployed cartridge on the CEW and apply contact away from the impact site of the probes. This technique could have an effect similar to a probe deployment from distance with a substantial probe spread. If only one probe impacts the subject, the drive stun follow up can act as the second probe completing the circuit. A three-point deployment “drive stun” is more likely to incapacitate the subject

**7. CEW shall not be used:**

- a. Punitively.
- b. In drive-stun, or touch-stun, mode as a prod or escort device.
- c. To rouse unconscious, impaired, or intoxicated individuals.
- d. For horseplay or clowning around or in an unprofessional manner.
- e. To experiment on a person or allow a person to experience the CEW, even if the person requests it, when the CEW’s use would not otherwise be allowed by this policy. This CEW experience does not apply to voluntary CEW training exposures or CEW demonstrations as authorized by the Department.
- f. For illegal purposes (e.g. illegal coercion, torture, etc.).

**8. CEWs may be used:**

- a. ***CEWs should only be used against persons who are actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves or others.*** For reference, the CEW has been found to be a more significant use of force than oleoresin capsicum (OC) spray on the use-of-force continuum, although it is still classified as non-lethal force.
- b. CEWs may be used when force is legally justified to prevent an actual attempted assault against officers or others, or to avert a reasonably foreseeable imminent threat of harm to officers, other person(s), or the subject; or
- c. In instances where objective factors reasonably indicate that the officers, the subject, or others would likely be endangered by the use of active force or resistance by the subject; and
- d. It is understood that deployments against humans may be very dynamic in nature and that probes may impact unintended areas.
- e. Where active resistance, assault, or violence against officers or others is reasonably anticipated, officers may display the CEW’s “test arc” or “paint the subject with the CEW’s laser” in an attempt to gain compliance of the subject without actual CEW deployment.
- f. During Department authorized training programs and/or demonstrations.

**9. CEW Exposure - Department Option:**

The Department solely determines whether Officers are required to experience voluntary CEW exposure.

- a. If an officer chooses to receive a voluntary CEW exposure, the officer shall, before the voluntary exposure:
  - I. Read and understand all current CEW warnings, and
  - II. Will read and execute the appropriate exposure waiver forms prior to the exposure.

**D. CEW Readiness**

1. The CEW shall be carried in an approved holster on the side of the body opposite the service handgun. officers not assigned to uniformed patrol may utilize other department-approved holsters and carry the weapon consistent with department training.
  - a. The CEW shall be carried fully armed, with the safety on, in preparation for immediate use when authorized.
  - b. Officers authorized to use the CEW shall be issued a minimum of one spare cartridge as a backup in case of cartridge failure, the need for redeployment, or in case the first cartridge's leads break during engagement. The spare cartridges shall be stored and carried in a manner consistent with training and the cartridges replaced consistent with the manufacturer's expiration requirements.
  - c. Only agency-approved battery power sources shall be used in the CEW.

**E. Deployment of the CEW**

**1. Legal Requirement Regarding Use of Force**

Any deployment/use of a CEW must be consistent with all applicable laws. Officers may use CEWs as allowed by applicable laws. Officers shall not use CEWs when such use would violate applicable laws.

**2. Training Requirement**

Any deployment/use of a CEW must be consistent with Department training.

**3. CEW Use**

The CEW, in probe deployment mode, provides a use-of-force option that aids officers in maintaining distance from perceived threats. The use of a CEW in either mode may also prevent officers and subjects from sustaining injuries caused by subject resistance or non-compliance. CEWs may also reduce the need for the use of other types of physical force, which could foreseeably result in more serious injuries or death, to the subject, officers, or others.

- a. The CEW shall be pointed at the ground in a safe direction with the safety on during loading, unloading, or when handled in other than an operational deployment.

**4. "Reasonable officer" Standard**

An officer's decision to deploy a CEW is justified if, based on a totality of the circumstances, use of the CEW was **compelled** by a strong governmental interest. Although other factors

may be considered, the following criteria are used to determine whether deployment of the CEW was justified, or excessive:

- a. The severity of the crime at issue (infraction/misdemeanor/felony);
- b. Whether the subject poses an immediate threat to the safety of officers or others;
- c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight;
- d. Whether the officer provided a verbal warning prior to deploying the CEW;
- e. What other tactics, if any, were available to effectuate the same outcome.

The decision to deploy a CEW must be objectively reasonable, meaning that it must be based on facts and circumstances that an objective (impartial) third-person law enforcement officer would look at and conclude that the deployment was reasonable. The subjective (personal) beliefs of the deploying officer will not justify the use of a CEW if they are not also objectively reasonable.

#### 5. **Potential for Injury**

CEWs are non-deadly use-of-force tools. However, CEWs, just like any tool or technique, can foreseeably create physical and/or muscle stress and/or exertion or other unexpected, unforeseen or unanticipated primary (directly caused by the CEW) or secondary (as a result of the CEW use, but not directly caused by the CEW discharge) injuries.

#### 6. **Subject Warning of CEW Application**

Whenever practical, based on the totality of the circumstances, officers shall give a verbal warning of the imminent application of a CEW in an attempt to cause the subject to comply with officers' lawful commands. However, if officers reasonably believe, based on the circumstances, giving such warning may escalate the risk of danger or diminish the safety of officers or others, then officers are not required to give a verbal warning.

#### 7. **Notification of CEW Imminent Use – Notifying Other On-Scene officers**

Officers deploying a CEW may reasonably notify any other on-scene officers that they intend to deploy a CEW. If reasonably safe and feasible, officers should consider announcing "*TASER! TASER! TASER!*" prior to deploying a CEW. This announcement should be made only if it would not further endanger the suspect, any officers, or others.

#### 8. **CEW Target**

The preferred target areas are center mass below the neck for back shots, as clothing tends to be tighter on this part of the body. Lower center mass (below chest or heart area) for front shots is the preferred target area as this creates space between the dart site and the location of the heart. Officers encountering subjects wearing heavy or loose clothing on the upper body may consider targeting the legs. Sensitive areas should not be intentionally targeted unless these areas can be justified as primary intended targets under the totality of the circumstances reasonably known to the officers at the time the CEWs are deployed.

#### 9. **CEW – Off**

Upon firing the device, the officer shall energize the subject the least number of times, and no longer than necessary, to accomplish the legitimate operational objective. The first cycle of CEW application is designed to capture the individual so he/she can be controlled or restrained. If no additional cycles are necessary, the CEW safety should be activated.

#### 10. **CEW Re-Application/Discharge**

If the subject of a CEW application continues fighting or physically threatening an officer, or if the subject continues to actively physically resist an officer's actions, the officer may re-apply (again discharge) the CEW. Note that the application of a CEW causes physical exertion. Each successive CEW application will likely cause continued physical exertion and stress. If an officer, out of necessity, discharges a CEW several times, the officer needs to be aware of, and monitor, the subject's condition for signs of continuing physical distress.

**Absent other objective indicators that the suspect is about to flee or poses an immediate threat to an officer or others, repeated applications of a Taser cannot be justified solely on the grounds that a suspect failed to comply with a command. This is particularly true when more than one officer is present to assist in controlling a situation.**

**An officer must consider whether a suspect is capable of complying with an officer's commands when deciding whether repeated applications of a Taser is appropriate.**

#### 11. **Multiple Simultaneous CEW Deployments/Uses**

Generally, no more than one officer should activate a CEW against a subject at a time. However, in "high-risk situations" where deployment of multiple CEWs is necessary to prevent injury to officers or others, more than one CEW may be utilized simultaneously.

#### 12. **"Touch Stun"**

The CEW may also be used in certain circumstances in a "touch stun" mode. This involves removing the cartridge and pressing the unit against an appropriate area of the body (based on training). It is important to note when the device is used in this manner, it is:

- a. Primarily a pain compliance tool due to a lack of probe spread.
- b. Minimally effective compared to conventional cartridge-type deployments.
- c. More likely to leave marks on the subject's skin.
- d. It is possible to apply a drive stun with a live cartridge, "three-point deployment" and this may be an effective technique. The close probe spread will likely not have an NMI effect. The officer may leave the deployed cartridge on the CEW and apply contact away from the impact site of the probes. This technique could have an effect similar to a probe deployment from distance with a substantial probe spread. If only one probe impacts the subject, the drive stun follow up can act as the second probe completing the circuit. A three-point deployment "drive stun" is more likely to incapacitate the subject. This method is also less likely to leave marks on the subjects' skin.
- e. Subject to the same deployment (use) guidelines and restrictions as those of the CEW in cartridge deployments.

#### 13. **CEW Distance:**

- a. In probe deployment mode, the EDC has a normal effective range of thirteen (13) feet with a fifteen (15) foot cartridge; nineteen (19) feet with a twenty-one (21) foot cartridge, twenty-one (21) feet with a twenty-five (25) foot cartridge, and thirty (30) feet with a thirty-five (35) foot cartridge.
- b. Discharging the CEW at a range closer than three (3) feet does not pose an elevated risk of harm to the subject. However, the CEW may not be fully effective at ranges under three (3) feet due to inadequate distribution of the probes.
- c. Point-blank probe deployments do not result in any unreasonable additional risk of injury to the subject.

#### 14. Emotionally Disturbed Persons (“EDP”)

See capture and control guidelines as outlined in Standard 41.2.8 - Persons Suspected of Suffering from Mental Illness.

#### 15. Verbal Commands

In an attempt to minimize the number of CEW discharges needed to gain subject compliance, officers should, while deploying the CEW, reasonably direct (order) the suspect as the incident mandates. Such verbal commands may include, “*stop resisting*,” “*lie flat*,” “*put your hands behind your back*,” etc.

#### F. Heightened CEW Application Risk Factors

Deploying a CEW under the following conditions, where such conditions are readily apparent to the involved officers, requires an elevated justification for CEW application. Under the following conditions, and with the following groups of people, the risks of direct or secondary injuries are foreseeably elevated. Therefore, an officer’s justification for CEW deployment under one or more of the following conditions is also elevated. ***Deploying a CEW under any of the following circumstances requires the presence of objective factors indicating an imminent threat to the safety of officers or others, or active resistance by the subject that is likely to result in assault or injury to officers or others.***

##### 1. Presence of flammable liquids/fumes or explosive environments

- a. Under limited circumstances, the discharge of CEWs may ignite flammable liquids/fumes. CEWs deployed at subjects who are reasonably perceived by the officers to have recently come into contact with flammable liquids/fumes, or in environments where flammable liquids/fumes are known to be present, may result in secondary injuries/burns. Officers should be especially aware of this potential flammability issue when present in known meth lab environments and/or similar environments or conditions.
- b. Other flammable environments include, but are not limited to: airplane refueling areas, sewers, laboratories, petroleum fueling stations, etc.
- c. However, even though a person who has come into contact with a flammable liquid creates a higher degree of potential risk for the subject, the officers, and third parties in the proximity of the subject, the totality of the circumstances may indicate that the subject may still be subjected to an CEW.

##### 2. Elevated positions

Reasonable consideration and care must be taken when deploying an CEW on a subject who is in, or on, an elevated position or under circumstances where a fall resulting from the CEW application may reasonably and foreseeably cause substantial injury or death.

**3. Person operating moving vehicle or machinery**

The use of a CEW on a person operating a moving vehicle or machinery could result in severe secondary consequences.

**4. Person running**

A subject who is exposed to a CEW while running may foreseeably fall as a result of the CEW exposure combined with running. This fall will foreseeably be dynamic and may cause substantial secondary injuries.

**5. Pregnant females:**

- a. Use of a CEW on a pregnant female may be alleged to cause injury to the woman and/or her fetus. In addition, there is an enhanced risk of secondary injuries related to a pregnant female falling onto her stomach during the CEW application.
- b. Although officers are not strictly prohibited from using an CEW on a pregnant female, significant justification consisting of objective factors indicating an imminent threat to the safety of officers or others is required to support deployment of an CEW on a pregnant female.

**6. Swimming pool or other body of water**

Significant justification is required to support deployment of a CEW on a subject who could, as a result of the CEW application, reasonably and foreseeably fall into a swimming pool or body of water. This scenario poses an elevated risk because the subject may not be able to prevent himself or herself from drowning.

**7. Intentional CEW application to sensitive areas**

Significant justification is required to support the intentional application of a CEW to sensitive areas. It is understood that deployment against humans may be very dynamic in nature and that probes may impact unintended areas.

**8. Frail or infirm individual**

Significant justification is required to support deployment of a CEW on an obviously frail or infirm person.

**9. Non-standard repeated CEW applications**

The use of a CEW on a person results in some degree of physical exertion or stress (due to muscle contractions, discomfort, etc.). Repeated CEW discharges will foreseeably result in additional exertion and stress. Repeated CEW discharges to the same suspect are allowed only when the suspect appears to be unaffected by one CEW application, and repeated CEW applications are necessary to subdue the suspect in order to prevent injury to himself, officers, or others.

**10. Children**

Although not strictly prohibited, significant justification is required to support deployment of a CEW on a child. The younger the child the greater the level of justification necessary to support application of the CEW.

#### **11. Seniors**

Seniors are often not perceived as serious threats to law enforcement officers. However, there are situations where seniors present a substantial threat to themselves, officers, or others. When determining whether substantial justification exists to support the deployment of a CEW on a senior, officers shall take into account the subject's frailties or obvious vulnerabilities or conditions.

#### **12. Restrained subjects**

A CEW shall not be used on any subject who no longer poses a threat, or who has become compliant and subdued after being physically restrained. An CEW may be deployed on a restrained individual only when objective facts demonstrate the restrained subject continues to pose an imminent risk of physical harm to himself, officers, or others.

### **G. Other CEW Factors to Consider**

#### **1. CEW is Not a Substitute for Deadly Force**

A CEW should generally not be used as a substitute for deadly force and should not be used in those situations. In deadly force situations, an officer's decision to deploy the CEW should be backed up with the immediate availability of deadly force.

#### **2. CEW vs. Handgun**

Prior to the deployment of a CEW, the officer(s) deploying the CEW have the responsibility (reasonably) visually and physically confirm that the use-of-force tool selected is in fact a CEW and not a firearm – in order to avoid weapons confusion.

### **H. Actions after CEW Deployment**

1. Appropriate post-incident action should be taken to care for the injured, to apprehend suspects, and to protect the scene.
2. A CEW will not be left unattended except in exigent circumstances as when an officer is forced to act alone in taking custody of a subject who reasonably poses an imminent threat.
3. When reasonable and safe, the officer using the CEW shall notify dispatch of the CEW deployment/use.

### **I. Supervisor Response to CEW Use**

1. A supervisor shall be advised of any CEW use.
  - a. Supervisor should respond to the scene of the CEW use.
  - b. Supervisor shall review with the officers the circumstances under which the CEW was used.
  - c. Supervisor shall complete a supervisor's Use of Force Report, and;

- d. Supervisor shall forward the Use of Force Report to the Division Commander prior to the end of Shift.

J. **Photographs**

1. When lawful and appropriate to do so, photographs should be taken of probe impact sites and any other related injuries as soon as reasonable to do so.
  - a. In some instances, photographs may **not** be taken, such as in some cases of juvenile suspects or when the probes contact a sensitive area such as genitals, female's breasts, etc. It is important to preserve evidence of the CEW use however, it is also important to not violate any medical, HIPAA, or privacy statutes or other legal restrictions.

K. **Post CEW Medical Attention**

1. If officers reasonably believe that the subject upon whom the CEW was used exhibits any sign of medical distress, the officers shall render aid and summon emergency medical care.
2. If needed, reasonable and appropriate medical personnel shall be summoned to the scene to assess the CEW subject. If the exam or other circumstances dictate the subject needs further medical treatment, the subject shall be transported by reasonable means to a suitable medical facility. The following persons shall be transported to a medical facility for examination following exposure to an CEW:
  - a. Any person who requests medical attention. officers shall ask persons if they desire medical attention;
  - b. Any person who is hit in a sensitive area (i.e., face, head, female breasts, male groin);
  - c. Any person from whom officers have difficulty removing the probes (owing to probe or barb separation);
  - d. Any person who does not appear to recover properly after being tased;
  - e. Any person who is in a potentially susceptible population category as defined in Section F, 1 thru 12;
  - f. Any person who has been energized more than three times;
  - g. Any person who has had more than one CEW used against him or her in any given incident;
  - h. Any person who has been subjected to a continuous energy cycle of 15 second or longer; or
  - i. Any person who has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to CEW exposure.
3. Medical treatment will not be refused for anyone who requests it.
4. If officers reasonably believe the subject is in need of medical treatment, the officers shall make reasonable efforts to obtain such treatment.

5. If safety circumstances reasonably dictate moving the subject to another location, officers may arrange to have emergency medical personnel meet the officers at another location to assess the subject and render medical treatment.
6. If emergency medical care or transportation is not reasonably available, or if the response delay appears excessive, then the subject may be transported (not face-down transport) by the officers for medical evaluation per Department policies. During transport, the officers shall reasonably monitor the subject's observable physical condition.
7. **Probe Removal:**
  - a. Some probes may remove themselves from skin or clothing. If a subject who has a probe embedded in his or her body requests that the probe be removed by medical personnel, then the officers shall arrange for medical personnel to remove the probes.
  - b. **Sensitive Areas**

Medical personnel shall remove probes located in sensitive areas.
  - c. **Non-Sensitive Areas**

Officers may remove probes in non-sensitive areas according to probe-removal training guidelines, which include wearing bio-protective gloves. Officers, or other trained personnel, will provide first aid following removal of the probes by applying iodine or alcohol wipes and Band-Aids to the probe sites as needed. Officers should inspect the probes after removal to see that the entire probe and probe barb have been removed. In the event that a probe or probe barb has broken off and is still embedded in a subject's skin, the subject shall be provided appropriate medical attention to facilitate the removal of the object.
8. **Probes - Biohazard:**
  - a. Probes that have been deployed and strike the subject will be treated as biohazard sharps. They may be placed point down into the expended cartridge bores and secured (e.g. with latex glove(s), tape, etc.).
  - b. Where CEW probe deployment is not a reasonably foreseeable issue, and where there is no indication of serious injury, probes and expended cartridges need not be routinely maintained as evidence. They shall be properly disposed of as directed by training.
  - c. If the incident is high profile, or if serious injury is alleged, the probes and the expended cartridge(s) shall be maintained as evidence, appropriately secured, tagged, and identified as bio-hazard(s).
9. **AFIDs:**
  - a. AFIDs shall only be collected and maintained as evidence if reasonably necessary, such as where identification of who discharged the CEW is a foreseeable problem or issue.
  - b. If officers determine the AFIDs need to be collected and maintained as evidence, then officers will attempt to locate the AFIDs dispersed at the time of the cartridge discharge. If collected, these AFIDs will be placed into evidence with any expended cartridge(s).

#### L. **CEW Use Report**

In addition to the Department supervisor's Use of Force Report and/or incident reporting requirements, all written reports associated with the CEW-related incident shall be completed before the end of the shift, or as reasonably possible thereafter. The CEW deployment documentation shall include, for example:

1. What precipitated the use of the CEW (include specific subject behaviors).
2. To what extent the CEW was utilized.
3. What were the known results of the CEW's utilization?
4. The name and rank of the responding and reviewing supervisor.
5. If medical personnel are involved with the subject, the report shall include the names and unit of responding medical personnel.

#### M. **Jail Notification of CEW Application**

Corrections personnel shall be informed that the subject was captured by use of an CEW.

##### 1. **Transport concerns:**

###### a. **Avoid Facedown Transport**

Officers should avoid transporting a subject, who has been controlled by the use of a CEW (or any subject), face down.

###### b. **Avoid Transporting on Probes**

If probes are still embedded in the subject, avoid transporting the subject in a position that would foreseeably further embed the probes into the subject.

#### N. **Use of CEW on Animals**

1. CEW field deployments have shown positive results and the CEW has been an effective tool against animals. Animals have also shown the ability to quickly recover from the effects of the CEW. As soon as the CEW temporarily disables the animal, officers should be prepared to act quickly with capture, control devices or restraints, or to take other appropriate action.
2. Using a CEW against animals may reduce the need for greater, more injurious force against such animals. The use of a CEW on an animal should be based on the intent to provide a safer, more humane, and less traumatic conclusion to the incident.
3. An CEW may be deployed on an animal when:
  - a. The animal is threatening or is attacking a person (including officers), another animal or animals, or property; or
  - b. The animal has threatened or attacked a person (including officers), another animal, or has caused a continuing public nuisance and the animal needs to be captured for reasons of public peace or safety, preservation of property, or other legitimate purposes; or

- c. The animal poses an active threat to officers in their efforts to perform their official duties.
4. Center mass of the animal should be targeted. Care should be taken to avoid the head and other sensitive areas on the animal. It is understood that deployments against animals may be dynamic in nature and that probes may impact unintended areas.
5. Procedures for probe removal should take place as outlined herein. In the event that probes impact a sensitive area, or it appears the animal's health is in jeopardy, personnel will take reasonable measures to ensure the animal's health and welfare.

#### O. **Accidental Cartridge Discharge**

In the event of an accidental CEW cartridge discharge, the officer(s) shall promptly notify their next level of command. The superior officer shall reasonably investigate the incident and prepare a written report documenting the incident. The report(s) will be forwarded to the Division Commander.

### **1.3.4.13 Patrol-Breaching Shotgun**

The Kennewick Police Department recognizes numerous door configurations, gates, locks, chains and bars can present a significant problem for officers using conventional breaching tools to gain rapid entry into a crisis site during high-risk low-frequency critical incidents. This policy addresses the training and deployment of the patrol-breaching shotgun.

The department has adopted the patrol-breaching shotgun to provide patrol officers an effective means to gain rapid entry through such barriers or obstructions at or within crisis sites, to stop or separate the threat from hostages and innocents within the crisis site. Rapid positive entry into crisis sites increases the chance for patrol officers to resolve the incident in a timely manner, resulting in fewer deaths and injuries to hostages and innocents within the crisis site.

#### A. **Definitions:**

##### 1. **Patrol-Breaching Shotgun Philosophy**

A concept of planning for and providing the necessary training and equipment for Patrol officers to gain rapid positive entry into a crisis site, resulting in fewer deaths and injuries to hostages and innocents within the crisis site.

##### 2. **Patrol-Breaching Shotgun**

A 12 Gauge pump or semi-automatic shotgun, equipped with a 3" stand-off breacher/gas deflector unit affixed to the end of the barrel 21 inches or shorter with cylinder bore used in conjunction with 12-gauge ballistic breaching rounds.

##### 3. **3" stand-off breacher/gas deflector unit**

A vented standoff affixed to the end of the barrel, designed to vent muzzle gas pressure, allowing for shots fired in direct contact with the door or door jam, eliminating the possibility of the barrel exploding.

##### 4. **12 Gauge Ballistic Breaching round**

12 gauge shot shell 2-3/4" containing a frangible slug comprised of compressed copper, steel or clay, or a combination of these materials.

5. Frangible Slug

Material compressed into the form of a slug that is designed to disintegrate into a fine powder upon impact, reducing the potential of injury caused by over penetration.

6. The Breaching Shotgun will have a factory finish and will not be marked with orange tape to avoid confusing it with less than lethal shotguns.

B. Patrol-Breaching Shotgun

Patrol breaching shotguns authorized for use shall consist of a department approved 12-gauge pump or semi-automatic shotgun equipped with a 3" stand-off, breacher/gas deflector unit, affixed to the end of the barrel 21 inches or shorter, with cylinder bore.

C. 12 Gauge Ballistic Breaching Rounds

Authorized ballistic breaching rounds consist of, Royal Arm's International Tactical Entry Safe Avon Rounds, (T.E.S.A.R), #1, #2, #3, and #4.

- |    |                     |               |  |
|----|---------------------|---------------|--|
| 1. | <b>T.E.S.A.R #1</b> | (Orange Cap)  | 2-3/4" 275 Grain                           |
|    | a.                  | Slug Material | Compressed Copper, Totally Frangible       |
|    | b.                  | Velocity      | 1,700 ft. p/sec. – 18" barrel              |
|    | c.                  | Use           | For wood door entry, solid and hollow      |
| 2. | <b>T.E.S.A.R #2</b> | (Black Cap)   | 2-3/4" 420 Grain                           |
|    | a.                  | Slug Material | Compressed Copper, Totally Frangible       |
|    | b.                  | Velocity      | 1,500 ft. p/sec. – 15" barrel              |
|    | c.                  | Use           | For metal door and heavy hinge entry       |
| 3. | <b>T.E.S.A.R #3</b> | (Green Cap)   | 2-3/4" 365 Grain                           |
|    | a.                  | Slug Material | Clay and Steel Dust, Totally Frangible     |
|    | b.                  | Velocity      | 1,600 ft. p/sec. – 15" barrel              |
|    | c.                  | Use           | All doors, locks and heavy hinges          |
| 4. | <b>T.E.S.A.R #4</b> | (Copper Top)  | 2-3/4" 750 Grain Copper Frangible          |
|    | a.                  | Slug Material | Compressed Copper frontal/S70 steel bottom |
|    | b.                  | Velocity      | 1,230 ft. p/sec. – 18" barrel              |
|    | c.                  | Use           | Class 3 heavy steel doors and heavy hinges |

**1.3.4.14**      Training

Commissioned members of the department will be trained in the concepts of the patrol-breaching shotgun philosophy as well as the use and deployment of the patrol-breaching shotgun. This training will be noted in the department training files.

Live fire training with the patrol-breaching shotgun will take place at an approved firearms range or approved training location.

**1.3.4.15**

Officers deploying the patrol-breaching shotgun will only do so with supervisor approval.

- A. Officers shall only deploy the patrol-breaching shotgun during high-risk low frequency critical incidents in which delayed entry into the crisis site would likely result in death or serious injury to hostages or innocents within the crisis site, or for the purpose of approved training.
- B. The patrol-breaching shotgun shall not be deployed for the purpose of general search warrant execution.
- C. 12-gauge ballistic breaching rounds are lethal. The patrol-breaching shotgun may be used as a means of directed force against a person if necessary and justified to protect against loss of life or serious injury to self or another. Use of the patrol-breaching shotgun in this manner is considered deadly force.
- D. With supervisory approval, officers may respond to outside agencies requesting Kennewick Police assistance for the use of the patrol-breaching shotgun. The breaching shotgun will only be used for the purpose of resolving a high risk low frequency critical incident, in which delayed entry into the crisis site would likely result in death or serious injury to hostages and innocents within the crisis site.
- E. To ensure the patrol-breaching shotgun is available to patrol officers at all times. The patrol-breaching shotgun shall be stored in a supervisor or designated S.W.A.T. vehicle approved by a Division Commander. The shotgun should stored in a case or locking device in the approved vehicle.

#### **1.3.4.16**

Use of the patrol-breaching shotgun will be documented in a Use of Force Report and the incident report(s), including results achieved. Photos will also be taken and placed with the case report, documenting the results of the patrol-breaching shotgun deployment.

### **1.3.5                      Rendering Aid after Use of Weapons or Physical Force                      WASPC Standard 3.4**

When officers use force, which results in injury, or complaint of injury, the officer is required to provide the appropriate medical aid to the injured party. If an arrestee/detainee becomes unconscious or appears to be seriously injured during the use of force, the officer will immediately contact SE-COMM and request Emergency Medical Services. If the injury appears to be severe, a supervisor should also be notified as soon as possible.

#### **1.3.5.01**

Pain and/or discomfort caused by the application of OC spray is not considered an injury. Officers should help the exposed person relieve the pain and/or discomfort by flushing the affected area with water and exposing the area to fresh air.

### **1.3.6                      Use of Force Reporting                      WASPC Standard 3.5**

Whenever a member of the Kennewick Police Department uses any force on another person officer(s) are required to complete an investigative report. This report will detail the full circumstances of the incident and be directed to the Chief of Police or his/her designee, through the chain of command.

Unless physically unable to do so, or otherwise directed, officer(s) shall prepare and submit their investigative reports to the investigating supervisor by the end of shift on the date of the incident or as soon as reasonably possible. The supervisor's investigation of the use of force shall be documented using the department's

"Supervisor's Report - Use of Force to Control" report form, completed by the investigating supervisor or his/her designee, will also be required. The investigative report shall be forwarded through the chain of command for review and determination of policy compliance.

A Case Report is also required in cases of this nature. Any medical or Aid Unit forms will be included in the Case Report, as well as photographs, and any other related documents.

#### **1.3.6.01**

If an officer is injured, the City Injury Report will be completed and forwarded through the chain of command.

#### **1.3.6.02**      **Discharge of Firearms, Reporting**

Any officer, who discharges a firearm, intentionally or accidentally, except intended shots fired at an approved range, or at a recreational event, shall submit a written report or provide a verbal account of the circumstances, via the chain of command to the Chief of Police or his/her designee.

In situations where a deadly force encounter isn't the cause for the discharge of firearm, reports will be submitted no later than the end of that officer's duty shift or, if off-duty, no later than the end of the calendar day during which the incident occurred. The shift supervisor will attach a report detailing the facts known to him/her. The on-duty supervisor shall immediately notify the Office of Professional Standards of the incident. In the case of a deadly force encounter, SIU shall coordinate the taking of the officer's statement, verbal or written, at a mutually agreed upon time following the incident.

#### **1.3.6.03**      **Weapons that have been discharged**

Any officer who discharges a firearm, on or off-duty, except those fired intentionally on an approved range, will, upon request by a supervisor or command officer, surrender that weapon. When the use of a firearm or any other weapon has caused death or serious injury, that weapon will be taken into evidence by a supervisor, command officer or member of the Special Investigative Unit assigned to do so.

The duty or back-up weapon of any officer will also be surrendered upon request to a supervisor or command officer for ballistic tests when necessary. No officer may refuse to surrender any duty weapon or back-up weapon, department-owned or personally owned, upon request of an authority as stated above.

Unless circumstances deem otherwise, the supervisor will as soon as possible replace the surrendered weapon with a department-issued weapon as soon as reasonably possible.

#### **1.3.6.04**

If an officer is incapable of submitting a report within the time stated, the officer's supervisor should complete a detailed report as soon as reasonably possible given the totality of circumstances.

### **1.3.7**                      **Annual Review of Use of Force**                      **WASPC Standard 4.3**

The Chief of Staff Commander shall conduct an annual review of the Use of Force Report(s). The annual review shall be utilized to reveal patterns or trends that could indicate training needs and/or policy modification. A report on the review shall be provided to the Chief of Police.

### **1.3.8**                      **Officers Involved in Death/Serious Injury Events**                      **WASPC Standard 3.6**

An incident involving death or serious injury is a traumatic event, which necessitates special consideration on the part of the department and its personnel. The involvement of an officer in an incident involving a death or serious injury poses special investigative and operational burdens upon the department.

The purpose of this standard is to provide a comprehensive departmental response to incidents involving an officer in a death or serious injury, which recognizes the legal, societal, and emotional needs of the officer and the officer's family.

**1.3.8.01**

The following procedure will apply for notifications. In the event of a death or serious injury, the on-duty shift supervisor will notify the following:

- A. Traffic Investigator(s) if an accident was involved.
- B. Patrol, Criminal Investigations, and Chief of Staff Division Commander(s)
- C. The Chief of Police or his/her designee, in accordance with department notification procedures.
- D. Public Information officer.
- E. The department legal advisor, if directed to do so by the Commander or Chief.
- F. Notify the President of either the Management or officers Association.
- G. Police Chaplain(s)

**1.3.8.02**      Post Incident leave and debriefing

An officer involved in a death/serious injury incident shall be relieved from line duty, pending administrative review, and may be placed on administrative leave with pay. A debriefing meeting should take place as soon as possible, using contract agreed upon guidelines, following the incident, unless the officer's medical condition, or special circumstances precludes such a meeting.

**1.3.8.03**      Return to Duty

In determining the appropriate administrative action to take in terminating an officer's administrative leave and returning the officer to regular duty, the Chief of Police or his/her designee will seek and consider professional psychological opinion(s) relating to:

- A. Whether an officer should be expected to report to full duty in his/her regular assignment or whether an officer needs additional recuperative time and, if so, how much additional time is recommended; and,
- B. Whether any modification of an officer's regularly assigned duties should be considered by the Department to facilitate the officer's speedy return to full productivity and, if so, the nature and duration of the recommended modifications; and,
- C. Whether an officer should for the duration of any extended leave, disability or modified duty, continue to be armed; and,
- D. In all cases, the employee shall be required to see a psychologist agreed to by both the employee and employer, at the department's expense.

**1.3.8.04**      Departmental Resources Available to Involved officers

Consultation with Department Legal Advisor

The department legal advisor will be available to provide information to the officer and the officer's family regarding various legal actions. These actions may arise in connection with a death/serious injury incident. Assistance may be offered to the officer and the officer's family in determining when to retain private legal counsel and what the officer's rights to legal counsel are under contract and City ordinance. Other legal assistance may be provided, when appropriate or within the limitations that the legal advisor, as an attorney employed by the City, cannot ethically represent the officer or the officer's family.

Interface with other City Departments

Training Unit will see that all damaged or destroyed departmental issued equipment or clothing is expeditiously replaced or repaired and will assist the officer in responding to inquiries from City personnel or finance relating to administrative leave or other personnel adjustments necessitated by the death/serious injury incident.

### **1.3.9                      Department Approved Weapons and Ammunition                      **WASPC Standard 3.7****

Requirements to be armed: All on-duty police officers will qualify and be armed with the authorized service weapon unless specifically relieved of that responsibility by the Chief of Police or his/her designee.

#### **1.3.9.01                      Approved Firearms**

Officers are authorized to carry department-issued Smith & Wesson handguns as their primary duty weapon. Secondary weapons are subject to restrictions listed elsewhere in this standard.

When in uniform, officers will normally carry their issued Smith & Wesson handgun, with two extra magazines. The Chief of Police or his/her designee may authorize exceptions.

Non-uniformed officers may carry any of the Smith & Wesson handgun(s) issued to them by the department for official use, as assigned, along with at least one extra magazine.

Modifications of any department owned firearm are prohibited unless approved by the Chief of Police or his designee. A written report of any modifications made to a department-owned weapon will be immediately forwarded to the Training Unit and will include a description of any/all modification(s) made and the name of the person(s) making said modifications.

Officers who are likely to operate in an undercover capacity, or those uniformed and non-uniformed officers assigned to mainly station or other special duties, may upon qualifying carry any department approved weapon. Examples of this would be D.A.R.E., Training Unit, Administration, etc.

Officers using a department-authorized undercover weapon in compliance with Standard 1.3.9.03 shall carry only department-approved ammunition in the weapon.

#### **1.3.9.02                      Authorized Ammunition**

Ammunition carried in the service weapon will be department-issue only. If the personal back-up weapon is of similar caliber as the department duty weapon, the department shall provide the ammunition. All ammunition carried will meet department specifications. The department issue ammunition will be one or two configurations depending on the caliber of weapon(s) issued.

Ammunition carried in personally owned back-up firearms will be of commercial manufacture, and be purchased from a lawfully licensed firearms dealer. All such ammunition will be of a jacketed or semi-jacketed configuration. Non-commercially reloaded ammunition will not be allowed for on-duty or back-up use under any circumstances.

**1.3.9.03**      Non-issued Personally–Owned Firearms - Authorized for Use

Officers may purchase weapons through the department if the weapon is for back-up or official use and not for resale. Weapons may be approved and authorized, by the Chief or his/her designee, on a case-by-case basis. It is understood that neither the City of Kennewick nor the Kennewick Police Department will be financially responsible for the payment of any weapon purchase.

Backup weapons: Officers may carry secondary weapons provided that:

- A. The officer has submitted a written request via the chain of command, listing the make model, caliber, and serial number of the weapon to be carried and the request has been approved by the Chief or designee.
- B. The weapon has been inspected and approved by a department firearms instructor
- C. The ammunition, if not provided by the department, carried in the weapon is of commercial manufacture and has been inspected and approved by a department firearms instructor.
- D. The backup weapon, while on duty, is to be carried only in conjunction with the department's issued duty weapon and never alone as a primary weapon, except when special circumstances don't allow for concealment of full size duty weapons when conducting undercover or covert operations
- E. The officer has advised his/her immediate supervisor that he/she carries a backup weapon and the location(s) where he/she carries it.
- F. The back-up weapon should be concealed.
- G. Officers shall not carry any firearm while affected by intoxicating liquor.
- H. An off-duty officer will not be subject to disciplinary action if an occasion should arise, in which the officer takes no action because of being armed or unarmed.

**1.3.9.04**      Tactical Duty Knives

The Kennewick Police Department recognizes the need for officers to be properly equipped to handle a wide variety of emergencies. The department recognizes a tactical duty knife will have many general work purposes and limited self-defense applications. The department authorizes each officer to possess and use a tactical knife.

- A. The tactical knife may be a folding or fixed blade with a blade length not to exceed five inches in length. Tactical knives shall be concealed and secured as a backup weapon.
- B. Tactical "folding knives" may be clipped on a pocket or waistband with the body of the knife hidden inside the pocket or waistband. Folding knives may also be carried on the duty belt in a black leather or nylon knife pouch.
- C. "Fixed blade" knives may be carried on a vest, boot or other readily accessible, concealed location. SWAT officers may carry their fixed blade knife on the outside of their SWAT uniform in a sheath when conducting official SWAT duties. The fixed blade knife will comply with Washington State law and have only one edge sharpened, i.e. not a "dagger style" blade.
- D. As per Senate Bill 5202:

*(a) Police officers are allowed to carry a "spring-bladed" knife while the officer:*

- (i) *Is on official duty; or*
- (ii) *Is transporting the knife to or from the place where the knife is stored when the*
- (iii) *officer is not on official duty; or*

*(b) The storage of a spring blade knife by a law enforcement officer.*

- E. All tactical duty knives carried by Kennewick Police Department personnel shall comply with Washington State law and the Kennewick Municipal Code. Tactical knives and the method of carry/concealment shall be subject to the approval of the respective Division Commanders.
- F. Officers shall handle tactical knives in an appropriate manner to prevent alarming the general public. Officers shall not display the tactical knife in a rude or threatening manner.

### **1.3.9.05**

The tactical duty knife should be considered deadly force when used as a weapon. Any use of the knife as a weapon should be limited to the facts and circumstances where deadly force would be justified by policy. Officers can exercise discretion in extreme circumstances to use the duty knife as a weapon. Circumstances could include situations where a hostage may be killed or injured by errant gunfire during a rescue attempt, or the use of a tactical duty knife could prove to be a more precise weapon in a crowd with poor lines of fire or in defense of self or others.

- A. All provisions of the Kennewick Police Department *Use of Force* policy shall pertain to use of the tactical knife as a defensive weapon except for “extreme circumstances” such as described above. This shall include, but not be limited to, obtaining medical aid for any injured party and the proper reporting as a use of force.

### **1.3.9.06**

Supervisors will periodically inspect department member’s tactical knives, if carried on duty, to ensure compliance with this Standard.

### **1.3.9.07**      Non-issued personally–owned rifles - Authorized for Use

Officers may elect to carry a personally owned .223/5.56 caliber rifle/pistol (AR-15 variant) on-duty provided that:

- A. The officer has submitted a written request via the chain of command, listing the make model, caliber, and serial number of the weapon to be carried. The rifle must be a commercially produced, semi-automatic, and is subject to inspection and approval by the Chief of Police or designee. Rifles capable of fully automatic fire are not permitted unless authorized by the Chief of Police or designee. Rifles must be equipped with iron sights or a sighting system at the time of qualification.
- B. AR-15 short barreled rifles (SBR’s) and legally defined AR-15 pistols must have barrels 10.5” or longer.
- C. The officer has qualified with the weapon as per Standard 1.3.10. Any changes in the sighting system after initial approval will require requalification before field deployment.
- D. The department will issue up to 90 rounds of rifle duty ammunition, which is required for duty use.

- E. The rifle, while on duty, is to be carried only in conjunction with the department's authorized duty handgun and never alone as a primary weapon.
- F. The Kennewick Police Department or the City of Kennewick will not be responsible for any personally owned rifle(s) that are lost, stolen, damaged or held as evidence.
- G. Officer must acknowledge if they use their personally owned rifle in the performance of their duties. The weapon system to include the sighting system, magazines and accessories are subject to rules of evidence currently applicable to department issued equipment.
- H. Accessories will be limited to those items approved by the Chief of Police or designee, and must be approved prior to field deployment. Authorized accessories may include;
  - 1. Commercially produced optics are authorized for use. Sights may include tritium, electronic or other luminescent dots/outlines on sights;
  - 2. Mounted lights and activation switches;
  - 3. Slings, including "tactical slings";
  - 4. Fore end rail systems and vertical fore end grips.
  - 5. Commercially produced suppressors are authorized for use in conjunction with a personally owned .223/5.56 AR-15 rifle/pistol for on-duty purposes. The same provisions in subsection F above apply to personally owned suppressors.
- I. While on duty, personally owned weapons shall be secured in the rifle rack or in a case while stored in a department vehicle.
- J. Clothing allowance/cleaning funds can be utilized for the purchase of a rifle or accessories.

### **1.3.10**                    **Weapons Proficiency Required / Limitations**

### **WASPC Standard 11.6**

All officers will qualify with their duty weapon at least annually on the department-approved course, under direction of a designated firearms instructor. All instructors utilized for the instruction and qualification of all weapons shall be a certified instructor in the weapon they instruct.

Each officer will obtain a minimum passing score as determined by the firearms instructors. The minimum score to qualify with a firearm is 80%. All officers must demonstrate proficiency with the weapon prior to on-duty use. The Department qualification is a pass/fail score.

Officers may request a waiver of these requirements because of medical conditions. Waivers need to be submitted in writing and approved through the chain of command. Failure to obtain the minimum passing score will result in the officer repeating the course within 24 hours. If an officer fails to qualify at this time, that officer will be placed on Administrative Leave or restricted duty and required to qualify after 48 hours. During the 48 hours, a firearms instructor will be made available for assistance if one is available.

Qualification will utilize a course approved by the Chief of Police or his/her designee. A copy of the course, to include sequence, times, distances, and related matters will be kept in the department training records. Any weapons found to be unsafe will be removed from service by the Range master until repaired or replaced with a properly functioning weapon.

#### **1.3.10.01**                    **Rifles – Department Owned**

Officers will, during annual qualification, demonstrate the proper use of the department issued M-16, AR-15 or M-4 type rifle(s). With the exception of emergencies, loaded rifles shall not be brought into the department or other city facilities. Only department-issued ammunition will be carried in these weapons. These weapons are not to be used unless the employee has completed approved department familiarization course(s).

A. Rifle

The M16, AR-15 or M-4 is also to be stored with the bolt closed, safety on, with an empty chamber. A loaded magazine is to be inserted into the gun.

**1.3.10.02**      Automatic rifles, Precision rifles, and Shotguns used to launch tear gas rounds:

- A. Members of the Benton County Regional S.W.A.T. Team will receive special training and qualification on these and other weapons on an annual basis, or more frequently, as directed.
- B. All qualification records, to include type of weapon, caliber, course, instructor and location, will be recorded in the department training files.
- C. No officer will be authorized to carry or deploy any special weapon unless currently qualified on a department certified qualification course.

**1.3.11**            Training in the Application of Deadly Force

Every commissioned, full-time officer of the Kennewick Police Department will be provided a weapon for duty use. Training in the use of their firearm will be held on at least an annual basis.

**1.3.11.01**        Department Range Qualification Procedures

The purpose of the following standard is to provide some structure in qualifications, and to establish areas of authority and responsibility.

The Training Unit is responsible for ensuring department personnel are qualified at time intervals established by policy. Qualification dates are determined by the Training Unit. This date is reviewed by appropriate supervisors who will screen the shift schedules to check for major vacation conflicts, in-service training, or other major personnel shortages.

A memo outlining the proposed date and location is forwarded through the Training Unit to Division Commanders for approval.

The Chief of Police or his/her designee or a Division Commander will then issue a special order announcing the qualification.

**1.3.11.02**

The Training Unit is responsible for ensuring the establishment of a qualification course and schedule. No more than two firearms instructors will be running a course at any time unless otherwise approved by a commander. An on-duty officer may be assigned to assist a range master for the purpose of minimizing schedule conflicts and overtime.

The Training Unit will maintain copies of all correspondence and schedules on each qualification. When qualifications are conducted, range masters will report any tardiness, absenteeism, or any inappropriate behavior to the officer's supervisor and Training Unit.

Range master qualification reports on all personnel will be reviewed and filed by the Training Unit. Any reports reflecting a problem will be brought to the attention of the appropriate supervisor by the Training Unit for necessary action.

### **1.3.11.03**

During the qualification course, range masters will:

- A. Inspect each officer's weapon for cleanliness and function prior to running the course;
- B. Maintain a first aid kit on the course;
- C. Monitor a portable radio on the course or have a telephone available;
- D. Report in writing any injuries sustained on the course to the Training Unit. The Office of Professional Standards will investigate all injuries.
- E. During any "live fire" on the range, ALL personnel will wear protective ballistic vests.

### **1.3.12**

#### **Annual Review / Instruction in Use of Force Policies**

#### **WASPC Standard 11.8**

Upon successful completion of the Qualification Course the range master(s) will review the department "Use of Force" Standard 1.3.1 – 1.3.5 with each officer. Review of the Use of Force policies will be done on an "at least" annual basis.

Officers must also demonstrate to the range master(s) the following:

- A. Knowledge in the use of the weapon.
- B. Knowledge of the laws concerning the use of authorized weapons.
- C. Knowledge of the department's policy on the use of force, escalating force, and deadly force.
- D. Familiarity with recognized safe-handling procedures.

### **1.3.12.01**

During the annual firearms qualification period Supervisors will provide each commissioned employee copies of all Use of Force policies (standards 1.3.1 – 1.3.6) and document receipt thereof.

### **1.3.13**

#### **Firearms Review Board**

The Firearms Review Board shall investigate and review the circumstances attending each discharge of firearms by an officer. This review shall encompass the facts and circumstances of the incident known to the officer at the time the officer's weapon was discharged. The board will review any discharge of a weapon, on or off-duty, including accidental discharges. This does not include intentionally fired shots at an approved range for qualifications training, or any recreational shooting.

### **1.3.13.01**

Members of the Review Board will include one commander, chosen by the Chief of Police or his/her designee and appointed as chairperson, the supervisor to which the individual officer was assigned during the discharge

situation unless that supervisor is directly involved in the situation, a supervisor of the officer's choice, an executive board member of the involved officer's association and a member of the City of Kennewick legal staff, if available. The legal advisor on the Review Board will be advisory in nature and will not participate in any formal recommendations to the Chief of Police or his/her designee.

**1.3.13.02**

The completion of an internal investigation shall be made within 30 days of the incident. The Chief or his/her designee may grant extensions. The incident shall then be forwarded to the chairperson of the review board. The chairperson shall call a meeting of the Firearms Review Board within 72 hours (except weekends, holidays, etc.) after completion of the internal investigation, unless prevented by unusual circumstances. The Firearms Review Board will present their findings to the Chief of Police.

**1.3.13.03**      Report of Findings

Upon completion of the review process, the board will file with the Chief of Police or his/her designee a separate written report, which would include comments, opinions, and general recommendations, intended to assist the Chief in making his/her final decision on the matter.

**1.3.13.04**

If the findings indicate that a firearms discharge was not justified, one of the following steps will be taken upon approval by the Chief of Police or his/her designee:

- A. If a violation of law or department rules or regulations is indicated, the matter shall be referred to the Office of Professional Standards and processed in accordance with the Department's disciplinary procedures.
- B. If an incident indicates improper training, the matter may be referred to the Training Unit so that proper re-training can be afforded to the officer.
- C. If the discharge was accidental, a recommendation will be made as to whether or not discipline or corrective training, or both, is necessary.