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# Seattle Police Department

## Policies & Procedures

<i>Search &amp; Seizure</i>	Effective Date:
<b>6.180 – Searches-General</b>	6/19/2009

### REFERENCES

CALEA standards, 1.2.4, 74.3.1.

### OVERVIEW

Under the Fourth Amendment to the U.S. Constitution, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” Washington Constitution article I, section 7 states: “No person shall be disturbed in his private affairs, or his home invaded, without authority of law.”

Searches and seizures generally must be made pursuant to a warrant. There are, however, exceptions when searches and seizures may be made without warrants.

#### I. Definitions

- A. Body cavity: The stomach or rectum of a person and the vagina of a female.
- B. Body cavity search: The touching or probing of a person’s body cavity, whether or not there is actual penetration of the body cavity.
- C. Consent search: A search conducted after a waiver of certain Constitutional protections.
- D. Custodial search or search incident to arrest: Typically more intrusive than a patdown frisk. The purpose and scope of the custodial search is to remove any weapons that the arrested person might seek to use in order to resist arrest or effect an escape. The search may be made to seize any evidence on the arrestee’s person in order to prevent its concealment or destruction. It can also include the area within an arrestee’s immediate control.
- E. Exigent circumstances: When there is probable cause to believe that delay in getting a warrant would result in the loss of evidence, escape of the suspect, or harm to police or public.
- F. Open view: When contraband or evidence is seen in, or from, an area open to public view and not protected by the Constitution.
- G. Patdown frisk: A search of a person that is relatively non-intrusive, such as a patdown for weapons during a brief investigatory stop.
- H. Plain view: When officers inadvertently discover contraband or evidence after making a lawful intrusion into a constitutionally protected area, such as a residence.
- I. Strip search: Having a person remove or arrange some or all of their clothing so as to permit an inspection of the genitals, buttocks, anus, breasts, or undergarments of the person.

#### II. Consent Searches

- A. Officers electing to search by consent shall have the consenting person sign a *Consent to Search* (form 9.54).

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- B. The validity of the consent depends on consent being given voluntarily. Consideration of the intelligence and education of the person are scrutinized by the court, as are physical and mental coercion, exploitation and the authority of the person to give consent.
  - C. Third party consents are valid under certain conditions.
    - 1. Consent is valid if the third person has equal authority over the business or residence and it can be concluded the absent person assumed the risk the cohabitant (roommate) might permit a search.
    - 2. A consent to search is not allowed if one cohabitant (roommate) or business partner objects to the consent, even if the other person gives permission. Consent must be given by both people, if present.
    - 3. Parents may consent to search a child's living area if the parents have routine access to the area (the child is not paying rent).
    - 4. Landlords cannot give consent to search if a lease or rental agreement is still valid.

### III. Open View/Plain View Doctrines

#### A. Open View

- 1. The open view doctrine allows the police to see and possibly seize contraband. To apply open view, the officer must see the contraband or evidence in an area open to public view and not protected by the Constitution.
- 2. Police officers are not allowed to enter and seize contraband if the contraband is exposed to the public from a Constitutionally protected place. For example: If officers see a marijuana plant growing in the window of a residence, they cannot enter the home, but have probable cause to seek a search warrant.

#### B. Plain View

- 1. The plain view doctrine allows the police to inadvertently discover contraband after making a lawful intrusion into a Constitutionally protected area, such as a residence. Inadvertent does not mean that the officer(s) have to be surprised by the discovery, but it does mean the contraband must be recognizable and be in plain view.
- 2. The key to the plain view doctrine is being in the protected place with permission (invited in) or on legitimate police business. Once the inadvertent discovery is made, officers have probable cause to seek a search warrant for a more thorough search.

### IV. Patdown Frisk

- A. The purpose and scope of the patdown frisk is to discover weapons or other items which pose a danger to the officer.
- B. For an officer to frisk a suspect who has been stopped as a result of a reasonable suspicion of criminal activity, the officer must:
  - 1. Have reason to believe that they may be dealing with an armed or dangerous individual, or
  - 2. Be able to articulate the belief that their safety or that of others was in danger.
- C. The frisk for weapons is strictly limited to what is necessary for the discovery of weapons which might be used to harm the officer or others nearby. Generally, the frisk must be limited to a patdown of outer clothing. In addition to the basis for the stop itself, the officer must have a sufficient basis to believe an individual is armed. This may include, but is not limited to:

1. Prior knowledge that the suspect carries a concealed weapon,  
Example: A hazard flag, or warrant information, exists indicating the suspect carries a weapon.
2. Suspicious behavior, such as failure to comply with instructions to keep hands in sight,  
Example: Suspect reaches under vehicle seat despite instructions to the contrary.
3. Observations, such as suspicious bulges, consistent with carrying a concealed weapon, or  
Example: Suspect has heavily sagging jacket pocket.
4. Prior knowledge that the suspect is a verified member of a gang known to carry weapons and their behavior warrants a Terry Stop.

## V. Search Incident to Arrest/ Custodial Search

### A. Search incident to arrest.

1. Vehicles - After a person is arrested out of a vehicle, officers have authority to search the passenger compartment and unlocked containers only if: (1) The arrestee is within reaching distance of the passenger compartment at the time of the search or (2) It is reasonable to believe the vehicle contains evidence of the offense of arrest. If the arrestee is handcuffed, away from the vehicle, or in the back of the patrol car, a search of the vehicle based on (1) is not permitted.
  - a. Officers are not allowed to unlock containers, gloveboxes, or trunks to search without a warrant or consent.
2. Residence - When a person is arrested in a residence, officers may only search the area where the arrest occurred. Officers may only search other areas of the residence if they reasonably believe that officer safety is threatened, or if there is a chance the arrested person might escape or destroy evidence.

### B. All persons who are arrested and taken into custody shall be thoroughly searched.

1. This search shall be conducted as soon as possible after the arrest and before transporting the prisoner(s). Evidence of any crime which is discovered in the course of a valid custodial search, as well as the objects immediately under their control when arrested, may be used to support whatever subsequent charge is appropriate and will be admissible as evidence in court. Anything beyond the arrested persons lunge zone is specifically prohibited.
2. A person arrested on misdemeanor warrants must be searched at the scene of arrest and cannot be searched after being transported unless the person is allowed to post bail and fails to do so.
3. Suspects will not be searched by officers of the opposite gender unless there is a reasonable likelihood that the suspect possesses a weapon or other object capable of causing injury or which could facilitate escape, or the officer believes that the suspect possesses objects which constitute evidence, which if not seized immediately could be destroyed, lost, or lose their value as evidence, and there is no officer of the same gender readily available to conduct the search.

## VI. Exigent Circumstances

- A. Police may conduct an immediate, warrantless search or seizure if there is probable cause to believe that delay in getting a warrant would result in the loss of evidence, escape of the suspect, or harm to police or public. Hot pursuit is an exigent circumstance.
  1. Officers are allowed to enter a home when the suspect retreats into the home or private area and there is reasonable fear of escape, destruction of evidence, or injury to police or public.

2. Criteria examined by the court.
  - a. Was the offense serious or one of violence?
  - b. Was the suspect armed?
  - c. Was the probable cause strong enough to believe the suspect committed the crime?
  - d. Was there strong probable cause to believe the person was on the premises?
  - e. Did the police identify themselves and give the suspect a chance to surrender prior to entry?
  - f. Was there an ongoing investigation or decision to arrest prior to the suspect fleeing into the premises?
3. Exigent circumstances also exist if the police are responding to a domestic violence call. Entry can be made if a person's health, welfare, or safety are concerned.

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# Seattle Police Department

## Policies & Procedures

<i>Employee Conduct</i>	Effective Date:
<b>5.001 – Standards &amp; Duties</b>	5/12/2009

### Purpose

This chapter provides the philosophy for employee conduct and professionalism and serves as the foundation upon which guidelines and rules are promulgated. The content of this chapter is not all-inclusive; other chapters of the Manual, directives, and other formal communications provide expanded or clarified information. A thorough review of this chapter will give employees, supervisors, and managers an understanding of standards and duties as they relate to their work and conduct as a member of the Seattle Police Department.

### Philosophy

Being an employee of the Seattle Police Department and, in particular, a sworn officer places all of us in a position of trust and high esteem in the eyes of the public. As employees we have access to privileged and confidential information and authority that far exceeds that of other citizens. The power to conduct investigations, arrest, and to use force are specifically granted to the police through the process of democratic government. We must be ever mindful that concurrent with this authority comes additional responsibility and that our actions are subjected to review and oversight through a variety of systems not imposed on others.

Now, perhaps more so than at any other time because of the aftermath of September 11, the work that all of us do is of greater importance to the citizens we serve. The history of policing is one of working together with the community in order to have a safer society. Members of the policing profession are respected and admired by the public for they truly know and appreciate the demands placed upon all of us as we strive to protect them and preserve civil liberties. Our jobs require professionalism and dedication and it is incumbent on all of us to adhere to the rules and regulations of the Department and to constantly remember the special place we hold in society.

#### I. Ensuring Public Trust

- A. To fulfill its mission, the Department needs the support and assistance from the communities it serves. One of the critical elements in creating and maintaining this important relationship is how the Department responds to perceptions and complaints from citizens.
- B. It is the Department's responsibility to receive and investigate complaints against its personnel and to conduct an investigation when there is information that an employee may have violated a law, rule, policy or procedure. In those instances, the Department will state the legal or policy violation when investigating an employee for alleged misconduct. When initiating an investigation into allegations of misconduct or violations of law not specifically defined in the Manual, the Department shall identify the related law, rule, policy or procedure violation alleged. Employees may be disciplined for proven violations of Department policy, procedure, or rule, or violation of law. The absence of a specific rule is not a shield against investigation into credible allegations of acts or omissions that are recognized as commonly held legal or workplace standards.

Refer to DP&P 11.001-Public and Internal Complaint Process.

- C. It is not the Department's intent to interfere with or constrain the freedoms, privacy, and liberties of employees. Discipline will only be imposed where there is a nexus or relationship between the conduct and the duties, rank, assignment, or responsibilities of the employee, whether on or off duty or in or out of uniform.

## I. Guidelines, Rules, and Expectations

A. This part of the chapter provides fundamental guidelines and expectations that govern the manner in which the Department fulfills its mission.

### 1. Chain of Command

#### a. Orders

(1) Employees shall adhere to the authority levels delineated in the Department chain of command. Employees shall obey any lawful order issued by a superior officer. Orders may be issued directly, or may be relayed through a subordinate employee. This section specifically includes published notices of mandatory training. Should such order conflict with any previous order, published regulation, or Table of Organization, this conflict shall be respectfully called to the superior officer's attention. The superior officer who issued the conflicting order shall take steps necessary to correct the conflict in orders. Superior officers assume responsibility for the actions of subordinates who are properly discharging the superior officer's directives. The ranks conferred upon employees via the Department chain of command apply while exercising law enforcement authority, whether in an on-duty or secondary employment capacity.

#### b. Insubordination

(1) Failure to obey orders from a superior officer constitutes insubordination. An employee is not obligated to obey orders of a superior officer when such orders are illegal or unethical; that represent unjustified, substantial and/or reckless disregard for life and officer safety; when the superior officer has been relieved from duty by an officer superior in command; when the superior officer is experiencing a manifest psychological crisis, or is otherwise physically or mentally incapacitated; or when other articulable and substantive circumstances are present that establish that the superior officer is incompetent or incapable of discharging the duties of his/her assignment. Employees confronting this situation shall, if practical, state the basis for objecting to the order to the superior officer. If the situation remains unresolved, the employee shall immediately contact the officer next higher in rank in his/her chain of command; the Duty Captain; or any higher-ranking officer (in that order). Employees invoking this exception shall be prepared to fully and accurately account for and justify their actions.

#### c. Responsibilities of Supervisors

(1) Every supervisor, commander and manager of the Department shall apply the standards, guidelines and rules of the Department in the execution of the oversight and management of the personnel assigned to them. Every supervisor, commander and manager of the Department is responsible for making and executing decisions within the scope and extent of their authority. The mere existence of a person of higher authority does not excuse a supervisor, commander or manager of the decision-making responsibilities that are inherent in their assignment.

#### d. Incident Command

(1) The principles of the Incident Command System shall be applied whenever appropriate. The three priorities of incident command, in order are:

(a) Life Safety

(b) Incident Stabilization; and

(c) Property Conservation

(2) While the IC System itself may be amended or modified depending on the situation confronting an incident commander, the essential categories are recognized to have universal applicability. These categories are as follows:

- (a) Command, Control and Communications
- (b) Operations
- (c) Planning and Intelligence
- (d) Logistics
- (e) Personnel and Finance
- (f) Safety
- (g) Public Information

Refer to SPD Emergency Operations Manual.

### III. Knowledge of and Adherence to Laws and Department Policy and Procedures

#### A. Laws

1. Employees shall be knowledgeable of and obey Federal and State laws, and the laws and ordinances of the City of Seattle. Employees shall be fully informed of the contents of the law relating to their decisions or enforcement actions by attending Department training and reviewing information provided by the Department.

#### B. Manual

1. Employees shall be knowledgeable of and adhere to the provisions of this Manual, and of all published changes or amendments to Department policy and procedures as promulgated by the Chief of Police or his/her designee.

#### C. Collective bargaining agreements

1. Employees of the Department, particularly supervisory personnel, shall be knowledgeable of applicable collective bargaining agreements, and local, state and federal labor laws (e.g. FLSA).

Refer to DP&P 2.050-Collective Bargaining and Contract Management.

### IV. Communication and Confidentiality

#### A. Through Chain of Command

1. Employees shall direct communications through their chain of command unless directed otherwise. If an employee believes they have information of such a sensitive nature as to require communication outside the chain of command, the employee may communicate directly with any higher-ranking officer, including the Chief of Police, and at that point the responsibility for any further dissemination of that information lies with the higher-ranking officer.

#### B. Representation of the Department

1. Responsibility for management of the Department and promulgation of policy and budget rests with the Chief of Police.

2. Employees shall not disseminate information concerning their personal interpretations of Department policy, investigations, crime patterns, budget, deployment or other opinions that could be construed as representing the Department or the Chief of Police. Subordinate employees may be granted authority to represent Department issues on a case-by-case basis, but only following delegation by their chain of command. Specific employees (e.g. Media Relations Officers) may be granted broad authority to represent Department issues outside their chain of command, or on behalf of the Chief of Police (or his designee).
3. Only employees holding the rank of Lieutenant and above may comment to the media on behalf of the Department. They shall provide Media Relations with information about the request and, if time permits, contact them in advance to assist with the interview. All information transmitted to the chain of command or, where permitted, externally, shall be accurate.
4. This provision does not apply to union leaders engaged in commentary about the Department as part of their duty of representation. This provision is not meant to restrain an individual's expression of free speech rights. When expressing their own opinions about Department policy or procedure, those opinions should be clearly identified as those of the speaker.

Refer to DP&P 1.070-Media Relations.

#### C. Confidentiality

1. All employees shall maintain confidentiality of sensitive Department records, the non-disclosure of which is essential to effective law enforcement, as well as private information, including criminal history, criminal investigations, complaints and disciplinary investigations, personnel information and other confidential Department information and documents and not communicate such information outside of the criminal justice system unless otherwise required by Department policy, court order or other legal mandate, or by expressed permission of the involved employee.

Refer to DP&P 12.080-Department Records Access, Inspection and Dissemination.

#### D. Personnel Information

1. All employees shall maintain confidentiality of information from personnel files, including home addresses, home and personal telephone numbers, and social security numbers of current and former employees and shall not share information of this nature unless required by Department policy, court order or other legal mandate, or by permission of the involved employee.

#### E. Correspondence

1. Departmental correspondence, including official letters and emails, addressed to entities outside the Department must be signed or approved by a Lieutenant or higher authority. Blanket approval for routine/repetitive correspondence may be granted by a Lieutenant or higher. Such routine correspondence shall be reviewed for content and compliance with policy on at least an annual basis.
2. All correspondence, and written communication, including but not limited to, e-mails, memos, letters, and MDC transmissions; is subject to public disclosure or discovery. All employees shall ensure that their communication is lawful, appropriate and professional.

Refer to DP&P-12.090 Departmental Correspondence & DP&P 12.110-Use of Department E-mail and Internet Systems.

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#### F. Recognition and Identification of Civilian Attired Officers

1. Any employee in uniform who meets another employee (sworn) dressed in plain clothes shall not indicate recognition unless greeted first, as the anonymity of sworn employees dressed in plain clothes must be maintained.
2. Plain-clothes officers shall properly identify themselves when/officially engaging in public contacts with citizens, except where anonymity is essential to the performance of duty.

#### V. Honesty

- A. Employees shall be truthful and complete in all official oral and written communications, statements, and reports; testimony; official administrative and employment records; and statements and interviews in internal investigations. The exceptions to this standard are where deception is necessitated by the nature of an employee's assignment, the need to acquire information for criminal investigation or public safety, or an exigency of ensuring employee safety or the safety of others. The use of deception must be for a specific and lawful purpose and temporary in nature. Employees may not represent themselves in anyway as a member of the media.
- B. Sustained allegations of dishonesty may affect an employee's ability to serve as an effective witness in court, and thus may be grounds for termination subject to the provisions of the applicable collective bargaining agreement.
- C. One of the Department's responsibilities is to investigate and assist the prosecutor in the prosecution of persons who commit crimes. Police also have an equally important responsibility to assist the prosecutor in preventing any miscarriage of justice. An employee shall promptly report information of which they have personal knowledge that he/she is aware may bear on or establish the innocence of a person under investigation, or who has been charged with or convicted of a crime, to his/her chain of command.

#### VI. Integrity

- A. As a Department standard, employees shall be consistent in their conduct and adherence to law and Department policy. Individual employee's actions that create a conflict of interest or the appearance of a conflict of interest, dishonesty, criminal activity, or permitting criminal activity may impair public confidence in the employee and the Department.
  1. Conflicts of Interest
    - a. Employees shall not engage in enforcement, investigative or administrative functions that create conflicts of interest or the appearance of conflicts of interest. For example, employees shall not be the primary investigators of crimes where they are the victim, nor effect arrests – except in an emergency – of family members, business associates, or social acquaintances. Employees shall exercise discretion in favor of recusing themselves from any process that might reasonably be expected to create a conflict or the appearance of a conflict of interest.
  2. Employee Associations
    - a. Employees shall not associate with persons, entities, and organizations where such association reasonably gives the appearance of conflict of interest in employee enforcement decisions or actions.
  3. Misuse of Authority
    - a. Employees shall not use their position or authority as a police officer for personal gain.

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#### 4. Gratuities

- a. Employees shall not solicit or accept any gratuity or any other thing of value where there is any connection, however remote, between such offer or solicitation and the employee's Police Department employment, except as expressly approved by the Chief of Police. Employees shall not:
- (1) Solicit or accept any gratuities of merchandise, meals, beverages, or any other thing of value which might tend to influence their or any other employee's actions in any matter of police business or which might reflect adversely on the Department or any of its employees,
  - (2) Solicit or accept any discounted services or merchandise whatsoever as a result of their Department employment unless such discount is routinely offered to various groups or individuals and not limited to Department employees,
  - (3) Solicit or accept any gift or gratuity from other Department employees if such items would adversely affect the actions of the employee in connection with police operations,
  - (4) Offer or agree to purchase any item of private property from a non-criminal justice employee, when the contact with the owner or agent of the owner is as a result of the employee performing his/her Department duties, without Department approval. This prohibition to purchase specifically includes firearms and real property,
  - (5) Become financially or otherwise indebted to any other employee to the extent that work performance is affected,
  - (6) Solicit any personal notoriety and/or award or solicit or accept any reward for services rendered incident to their position or duty as an employee of the Department, or
  - (7) Solicit or accept free admission to the theaters and other places of amusement for themselves or others; except in the line of duty.
- b. Any unauthorized gratuity, gift, fee, commission, loan, reward, or other thing falling into any of these categories which comes into the possession of any employee shall be forwarded through the Captain of the Audit, Accreditation and Policy Section to the office of the Chief of Police together with a written report explaining the circumstances connected therewith. A copy of the report shall be forwarded to the employee's Section or Precinct Commander.

#### 5. Engagement of the Civil and Criminal Justice System

- a. Prior to initiating a civil action for damages sustained while working on or off-duty in a law enforcement capacity or which arises by virtue of the officer's employment with the Seattle Police Department, the employee shall report their intention, in writing, to the Chief of Police.
- b. Sworn employees shall not apply for any criminal process, such as a no contact or restraining order, regarding an assault upon themselves that occurred on-duty or while working in an off-duty law enforcement capacity, without notifying their chain of command. Sworn employees shall report any assault upon themselves that occurred while working in an off-duty law enforcement capacity to their chain of command.
- c. No employee below the rank of Bureau Commander shall make any recommendations regarding the disposition of any pending court case investigated by the Department to any court or other judicial agency. This does not apply to agencies conducting Pre-sentence Investigations.

- d. Employees shall refrain from making any recommendations to any other agency which might imply official approval or disapproval of that agency's action by the Department.
  - e. Any employee below the rank of Bureau Commander who wishes to make any other recommendation may forward such recommendation, in writing, through the proper channels, to the bureau handling the investigation.
  - f. Employees shall not interest themselves in any manner in any civil action growing out of their official police knowledge or actions, except by due process of law.
6. Recommending Employment of Attorneys, Bondsmen and Business Firms.
- a. Employees shall not recommend or suggest the employment of any attorney, bondsman, or business to any person during the course of, or as a result of, their official business as employees of the Department.

## VII. Professionalism

- A. Department employees, and particularly sworn uniformed officers, are the most conspicuous representatives of government, and are legally granted significant authority to enforce the law and ensure public order and safety. The standards that govern this authority include conduct that is respectful, neutral, objective and unbiased. Specific rules and guidelines that relate to this standard include the following:
1. Exercise of Discretion
    - a. Discretion consists of the ability to apply reason, professional experience and judgment in decision-making. Employees are authorized and expected to use discretion consistent with the mission of the Department and duties of their office and assignment. The scope of discretion is proportional to the severity of the crime or public safety issue being addressed. For example, an employee's scope of discretion in dealing with a minor traffic infraction is broader than when an employee is affecting an arrest on probable cause for a domestic violence misdemeanor or felony.
  2. Courtesy
    - a. Employees shall strive to be professional and courteous at all times, whether in person or through other means of communication.
  3. Traffic stops:
    - a. Employees will introduce him or herself to the citizen, providing name, rank or title, and agency affiliation, and state the reason for the stop as soon as practical when safety considerations allow, unless the employee believes providing this information will compromise officer or public safety.
    - b. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the citizen is informed of the purpose of reasonable delays.
    - c. To the extent that safety considerations and confidentiality requirements allow, answer relevant questions the citizen may have concerning the traffic stop if circumstances permit, including explaining any options for traffic citation disposition, and name and serial number when requested.

Refer to DP&P 6.235-Traffic Enforcement.

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4. Reasonable suspicion stops:
    - a. When practical, an officer will attempt to explain the reasons for a reasonable suspicion stop if the suspicion for the stop no longer exists and if appropriate express regret for any inconvenience.  
Refer to DP&P 6.220-Social Contacts, Terry Stops and Arrests.
  5. Duty to Identify
    - a. Provided that no investigation is jeopardized, no police function is hindered, and safety considerations permit, when a citizen requests a Department employee engaged in Department related activities to identify themselves (including but not limited to requests for name, badge number, or serial number), the employee shall do the following:
      - (1) Uniformed, sworn employees and Parking Enforcement Officers shall provide their name, and Department serial number verbally, or if requested, in writing, or provide a Department-issued business card that contains their name and serial number.
      - (2) Non-uniformed, sworn employees shall display their badge and Department identification card, and shall provide their name and Department serial number verbally, or if requested, in writing, or provide a Department-issued business card that contains their name and assignment.
      - (3) Civilian employees shall verbally provide their name and Department serial number, or provide a Department-issued business card that contains their name and serial number, and shall display their Department identification card if specifically requested to do so.
  6. Prohibitions Concerning Derogatory Language
    - a. Words which imply derogatory connotations or manifest contempt or disrespect toward any race, creed, religion, sexual orientation, or national origin shall not be used at any time by employees of the Department in the course of their duties or at any other time so as to bring the Department or themselves into disrepute.
    - b. Profanity is discouraged, but it is understood that it will occur occasionally in a law enforcement environment. The use of profanity will be judged based upon the totality of the circumstances in which it is used.
  7. Training
    - a. Employees shall attend all mandatory training and meet all qualifications within the time period proscribed. In the event that an employee is unable to comply with an order for mandatory training, the following will apply:
      - (1) Employees who are on approved limited or light duty and cannot participate in a mandatory training program because of their work restrictions shall submit a written waiver request on a Memorandum, and an *Insurer Activity Prescription Form* (APF) through their chain of command.
      - (2) Employees who have been issued subpoenas shall be excused for that portion of the training that coincides with their court appearance.
      - (3) Employees who have missed any mandatory training as a result of excused absences, such as a sick day, shall make arrangements through their immediate supervisor to complete that training within a reasonable time frame.
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### 8. Establishing and Maintaining a Respectful Workplace

- a. Harassment because of a person's race, color, religion, creed, sex, sexual orientation, national origin, ancestry, age, disability, marital status, or political ideology, or that of their relatives, friends, or associates is employment discrimination. Such harassment violates either City, State, or Federal laws. The Department will not tolerate any form of harassment.

Refer to DP&P 5.080-Harassment in the Workplace.

### 9. Completion of Reports, Evidence Processing, and other Official Actions

- a. Employees shall give priority to the completion of Incident or other official reports and/or processing a scene for evidence unless there are reasons that necessitate foregoing these investigative actions.

### 10. Criticism of Orders and Others

- a. Employees shall not publicly criticize or ridicule verbally or in writing the Department, its policies, or other employees, other law enforcement agencies, or the criminal justice system or police profession generally while on duty or in uniform where such expression is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity.

### 11. Accountability

- a. All employees share the responsibility to promote accountability within the Department. Employees shall report any criminal violations of law or serious misconduct involving any employee performing Department duties that they witness in the manner directed in other sections of the SPD manual.

Refer to DP&P 1.040-Department Mission Statement and Priorities

### 12. Secondary Employment

- a. Employees holding the rank of sergeants and above shall not engage in law enforcement secondary employment that is coordinated, or brokered by, or supervised or scheduled by, an employee of lower rank in the supervisor's direct chain of command.

Refer to DP&P 5.120-Secondary Employment.

### 13. Firearms Standards

#### a. On Duty

- (1) Sworn employees must be armed with a Department-approved firearm and carry official SPD identification or be in uniform within the City.
- (2) Exceptions to this requirement include certain assignments or instructions from the Department, attendance at certain training sessions wherein the carrying of a firearm is prohibited, and in certain areas such as jail/detention facilities, medical facilities, etc.

Refer to DP&P 8.040-Firearms in the King County Courthouse for the policy regarding firearms while in the King County Courthouse.

b. Off Duty

- (1) When armed in the City or with their Department-approved firearm, sworn personnel must carry official identification while off duty and in plainclothes. Off-duty sworn personnel may choose whether or not to be armed.

Refer to DP&P 8.040-Firearms and Firearms in the King County Courthouse.

VIII. Duty Status and Course and Scope Certification

- A. The Chief of Police has final authority through the Charter of the City of Seattle to determine the on-duty status of any employee, and whether their actions are within the course and scope of their duties. Completion of overtime or other Department forms by employees does not establish the duty status of an employee of the Seattle Police Department.

Refer to DP&P 1.010-Authority and Jurisdiction.



# Seattle Police Department

## Legal Bulletin



An Accredited Law  
Enforcement Agency

Date: 2/8/2010

Bulletin: LB 10-002

**Search of a Vehicle Incident to Arrest is permissible only when (1) the search is necessary to preserve officer safety or (2) prevent destruction or concealment of evidence of the crime of arrest**

On April 21, 2009, the United States Supreme Court ruled that a warrantless search of a vehicle incident to arrest is lawful only if (1) the arrestee is within reaching distance of the passenger compartment at the time of the search or (2) it is reasonable to believe the vehicle contains evidence of the offense of arrest. (*Arizona v. Grant*, \_\_\_ U.S. )\_\_\_ 129 S. Ct. 1710, 173, L. Ed. 2d 485 (2009).) The Department issued two legal bulletins (09-002 & 09-003), and provided a training video explaining the above rules.

**State v. Valdez, Slip. Op. 80091-0, Filed December 24, 2009**

On December 24, 2009, the Washington Supreme Court issued an opinion in *State v. Valdez*, Slip Op. 80091-0, that has made it almost impossible to lawfully perform a search of a vehicle incident to an arrest under a *Gant* type exception. On May 10, 2005, Valdez was stopped for driving a vehicle with only one working headlight. After Valdez presented identification, a records search revealed an outstanding arrest warrant. Valdez was arrested, handcuffed, and placed in the back seat of the patrol car. A subsequent search found two pounds of methamphetamine and Valdez (along with a passenger) was charged with possession of a controlled substance, with intent to deliver. Both defendants moved to suppress the methamphetamine. The trial court denied their motion. The Court of Appeals, Division Two reversed and sent it back to the trial court with instructions to suppress the methamphetamine evidence.

The Washington Supreme Court affirmed the decision of the Court of Appeals, holding "A warrantless search of an automobile is permissible under the search incident to arrest exception **when that search is necessary to preserve officer safety or prevent destruction or concealment of evidence of the crime of the arrest.**" (*Valdez*, Slip Op. 80091-0, p. 23. Emphasis added.) Further, the Court determined that "Under Article I, section 7, the search was not necessary to remove any weapons the arrestee could use to resist arrest or effect an escape, or to secure any evidence of the crime of arrest that could be concealed or destroyed, [because] [t]he arrestee had no access to his vehicle at the time of the search." (*Valdez*, Slip Op. 80091-0, p. 24.)

Thus, whereas arrested persons are typically handcuffed and placed in the back seat of a patrol car, it will be a rare circumstance, if ever, when an officer will be able to articulate the safety concern that required searching the vehicle of an arrestee who is in the back of the patrol car. Likewise, there will be very few, if any, circumstances where evidence in the vehicle would be

subject to concealment or destruction by the arrestee who is in the back of the patrol car. Thus, the Valdez ruling makes it extremely unlikely that any search under a Gant exception would be upheld and very likely that any evidence found as a result will be suppressed.

**What's an Officer to do?**

To ensure the best chance of a successful prosecution, officers should obtain a warrant prior to searching the vehicle of an arrested suspect. If that is not possible, officers may conduct a search of the vehicle incident to arrest if the officer believes that he/she will be able to articulate a reasonable belief that the vehicle contained evidence of the crime of the arrest and that there was a danger of concealment or destruction of the evidence; or exigent circumstances (like a hazard of some kind) unrelated to searching for evidence of the crime required the officer to take action.

Finally, please note that Valdez only applies to searches of an automobile incident to arrest, and not searches pursuant to some other exception (e.g. Terry style frisks of persons or cars for officer safety). Officer safety must come first, and officers must do what it takes to remain safe.

As with any new criminal court decision, if there are any questions regarding the application of this case, contact Legal Advisor Renni Bispham 206-684-8649.

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# Seattle Police Department

## Policies & Procedures

<i>Search &amp; Seizure</i>	Effective Date:
<b>6.240 – Use of Force</b>	3/26/2010

### REFERENCES

CALEA standards 1.2.2, 1.3.1, 1.3.2, 1.3.3, 1.3.5, 1.3.6, 1.3.8, 1.3.10.

RCW 9A.16.040, 9A.16.020, 70.96A.120

### PHILOSOPHY

An officer's decision to use force, particularly deadly force, is one of the most important decisions he or she makes as a law enforcement officer. The decisions of when, which type, and how the force is used are complicated and very often made in split seconds. Department training is critical and each year, through such courses as street skills and qualification, the knowledge, skills and techniques that an officer needs to be safe and to protect the public are taught or reinforced.

The Department has a duty and an obligation to provide the training and tools officers need in this area, since we are the only governmental employees empowered to use lawful force. The Department has a responsibility to carefully monitor and review each use of force, to ensure that the force was within the parameters of our policies and law, and to ensure that lessons learned from real experiences are included in training.

As an officer, you have a responsibility to maintain your proficiency and skills in using force and in proper arrest and control techniques. Your *fitness, command presence, and thinking and planning tactically as you respond to calls* can be critical in ensuring your safety and the safety of other officers and the public.

Supervisors have an important responsibility in reviewing use of force situations and in correcting and coaching officers in this area.

### POLICY

Officers may, in the performance of their official duties, use only the amount of force necessary and reasonable to effect the lawful purpose intended. When determining the necessity for force and the amount of force required, officers shall consider known circumstances, including, but not limited to, the level of threat or resistance presented by the subject, the danger to the community, and the seriousness of the crime.

The use of force by officers is authorized by RCW sections 9A.16.020 Use Of Force – When Lawful; RCW 9A.16.040 Justifiable Homicide Or Use Of Deadly Force By Public Officer, Peace Officer Or Person Aiding; and RCW 70.96A.120(2) Peace Officer Duties. Use of force, to include deadly force, less lethal force, or any other force option, may not be used where statutory requirements for the use of force cannot be satisfied.

To the extent that the Department's use of force policy may contain additional provisions not addressed in state law, such provisions are not intended, nor may they be construed or applied, to create a higher standard of care or a duty toward any person or to provide a basis for criminal or civil liability against the City, its officials or individual police officers. Violations of the policy may result in discipline. This policy applies to all Manual Sections dealing with the application of any level of force.

#### I. Definitions

- A. Necessary: No reasonably effective alternative to the use of force appeared to exist, and the amount of force used was reasonable to effect the lawful purpose intended.

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- B. Deadly Force: The intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury. (RCW 9A.16.010)
- C. Neck Hold: A general term for two different types of holds: Note: the use of neck holds is considered deadly force.
1. Bar-arm control hold: a hold that inhibits breathing by compression of the airway in the neck.
  2. Carotid restraint hold: a hold that inhibits blood flow by compression of the blood vessels in the neck.
- D. Less Lethal force: A level of force such that the outcome is not intended to cause death. Includes the TASER, the baton or flashlight, the beanbag shotgun, OC spray, or other riot control agents.
- E. Physical Force: Any use of physical force other than that which is considered deadly or less lethal force, which causes an injury, could reasonably be expected to cause an injury, or results in a complaint of injury. This definition includes placing a subject into a "Full Restraint Position".
1. Unless they fall within the definition outlined above, the following actions are not considered "physical force":
    - a. Unholstering, and/or displaying, a firearm or less lethal device while executing lawful duties.
    - b. Escorting or moving a non-resisting subject.
    - c. Handcuffing with no or minimal resistance.
    - d. Approved crowd control tactics during demonstrations.
- F. Violent Felony: That felony in which a suspect uses physical force likely to result in serious bodily injury or is armed with a weapon, implies a weapon or threatens the use of a weapon. A violent felony includes, but is not limited to, the following offenses: Murder, Kidnapping, Assault in the first or second degree, Robbery, Rape in the first or second degree, Arson or bombing of an occupied structure, and Burglary in the first degree.
- G. Bodily or Physical Injury: Significant physical pain, illness, or impairment of physical condition. (SMC 12A.02.150)
- H. Substantial bodily harm: An injury which involves a temporary but substantial disfigurement, loss or impairment of any body part or organ, or which fractures any body part. (RCW 9A.04.110)
- I. Great bodily harm: An injury which causes serious permanent disfigurement, loss or impairment of any body part, or which creates a probability of death. (RCW 9A.04.110)

## II. Medical Aid

- A. If needed, medical aid and/or emergency medical service shall be rendered as soon as possible after any use of force.
- B. Some circumstances warrant an on-scene medical evaluation at the site of a force application. Officers should consider those circumstances to include use of force on a very young or very old subject, where the officer has credible information on a subjects preexisting medical condition, on a subject found to have a special medical condition (for example, pregnancy) or a debilitating illness, or on a subject whose demeanor and response required any application of force resulting in apparent significant injury.
- C. In situations where three or more TASER applications were required, and/or the above noted circumstances exist, an on-scene medical evaluation by the Seattle Fire Department shall be performed to

determine if an underlying cause for the subjects demeanor and resistance may trigger unexpected health risks.

- D. An on-duty supervisor shall be notified of any use of force related medical aid and/or emergency medical service. Absent extenuating circumstances, a supervisor shall respond to the location of any use of force related on-scene medical evaluation.

### III. Discharge of a Firearm at an Animal

- A. An officer may discharge a firearm at an animal when necessary in self-defense, defense of another person, or to provide for the safety of the general public.
- B. An officer may discharge a firearm at an animal when the animal is so critically injured that humanity requires relieving it from further suffering, and an Animal Control officer is not immediately available. An officer should obtain prior supervisory approval, when practical, under these circumstances.

### IV. Removal from Line Duty Assignment

- A. Any officer whose action or use of force results in substantial or great bodily harm shall be removed from line duty assignment until review of the incident is completed.

### V. Administrative Leave

- A. Any officer using or directly involved in the application of deadly force shall be placed on administrative leave with pay pending review; except that, in instances of firearm discharges at animals, a lieutenant or above shall review the circumstances surrounding the application of force and make the determination to place the officer on administrative leave or return him/her to duty (DP&P 8.060-Officer Discharge of Firearm).

### VI. Use of Deadly Force

- A. Deadly force shall only be used when the suspect poses a threat of serious physical harm to the officer or a threat of serious physical harm to another person, and the officer reasonably believes that a lesser degree of force is inadequate.
- B. An officer may consider the use of deadly force in the following circumstances only when the officer has probable cause to believe that the suspect, if not apprehended, poses a threat of serious physical harm or death to the officer or others.
  - 1. To arrest or apprehend a person whom the officer reasonably believes has committed, has attempted to commit, is committing, or is attempting to commit a violent felony.
- C. If a decision has been made to employ deadly force, the officer shall, whenever possible, identify him or herself and demand that the subject stop (example: "stop-police").
- D. RCW 9A.16 establishes a higher standard for police officers than the private citizen in the application of deadly force.

### VII. Discharge of Firearms

- A. An officer shall not discharge a firearm on-duty or off-duty for other than lawful purposes.
- B. While engaged in the performance of their official duties, officers may discharge a firearm at a person when the use of deadly force is justifiable.

C. An officer will not be criticized or disciplined by the Department for a decision not to employ the use of a firearm to arrest, apprehend, or prevent the escape of a suspect even though the use of a firearm is justifiable.

D. Officers shall not fire warning shots.

#### VIII. Discharge of Firearms from or At a Moving Vehicle

A. Discharging a firearm from or at a moving vehicle shall only be done in the following circumstances and only when all other reasonable alternatives have been exhausted or deemed unacceptable. Firing at or from a moving vehicle can often only increase the risk of harm to other officers or citizens. Accuracy is severely impacted when firing from a moving vehicle; firing at a moving vehicle will have very little impact on stopping the vehicle. Disabling the driver will most likely only result in an uncontrolled vehicle, and the likelihood of injury to occupants of the vehicle (who may not be involved in a crime) is increased when the vehicle is either out of control or shots are fired into the passenger compartment.

1. An officer shall not discharge a firearm from a moving vehicle unless deadly physical force is being used against the officer or another person by means other than a moving vehicle (e.g. fired upon), and the risks are outweighed by the need to use deadly physical force.
2. An officer shall not discharge a firearm at the driver, occupants, or a moving vehicle unless deadly physical force is being used against the officer or another person by means other than a moving vehicle, or, the moving vehicle poses an imminent and ongoing threat of substantial physical harm to the officer or another person from which there is no reasonable means to escape and the risks are outweighed by the need to use deadly physical force. Once the threat of the moving vehicle ceases, an officer shall not discharge his or her firearm.
3. Officers shall not intentionally place themselves in a vehicle's path, to either the front or the rear. If they find themselves in danger from a moving vehicle, they shall attempt to move out of the way, if possible, rather than discharging their firearm. Firing at a moving vehicle will not, in most circumstances, stop the vehicle. Further, should the driver be wounded or killed, the vehicle may still continue in motion.

#### IX. Use of Neck Holds

A. The use of neck holds, such as the carotid restraint hold and the bar-arm control hold shall be considered deadly force.

#### X. Use of Less Lethal Force

A. Less lethal devices provide officers with alternative resolutions short of the use of deadly force. In deciding to deploy any less lethal force option, officers should carefully evaluate conditions and factors they know, or have reason to believe, may affect a subject's response to the application of force or may increase the secondary risks (such as injuries caused by a fall) of the force application.

Less lethal devices are not intended as the first response to potential lethal situations. In no situation are officers required to use less force than is being threatened by a subject. In the interest of public safety, less lethal options shall not be employed against lethal threats except when lethal cover is available and in place, to provide protection for the officers employing these tools, as well as innocent parties who are not involved.

B. Less Lethal devices may be used, when necessary:

1. To overcome a subject's combative intent, active physical resistance, and/or assaultive behavior

2. To control, disable or subdue persons bent on harming themselves or others and/or
  3. To provide self-defense.
- C. An officer is justified in using less lethal force in circumstances where an officer reasonable believes that other force options would be ineffective or impractical.
- D. Only officers who have successfully completed a training course designated by the Commander of the Training Section in the use and deployment of less lethal weapons will be permitted to deploy such weapons.
1. The Department will provide officers, at a minimum, biannual training in the use of less lethal weapons. This training will also include the use of OC spray and impact weapons.
- E. Only Department authorized less lethal options and equipment may be used. At this time, the TASER, Department issued OC spray, specialty Patrol C.A.R.T. (Chemical Agent Response Team) munitions, impact weapons (including the expandable baton), and the beanbag round for the Remington 870 shotgun, are approved for use by appropriately trained patrol officers.
- F. Personnel assigned OC spray, Patrol C.A.R.T or TASER less lethal force options are authorized to use these agents or devices during Unusual Occurrences (UOs), consistent with Department policy, unless otherwise directed by a Supervisor or the Incident Commander. Officers should weigh the capabilities and limitations of these force options in a crowd control setting. Less lethal force, specifically OC spray (Oleoresin Capsicum) or other riot control agents, shall not ordinarily be used to overcome passive resistance by nonviolent and/or peaceful protesters, absent additional compelling factors, or unless previously approved by the Incident Commander.
1. The Special Weapons and Tactics (SWAT) team, or designee, has the responsibility to deploy crowd dispersal chemical agents and/or Less Lethal devices during an Unusual Occurrence. The Incident Commander shall be given authority to direct the use of chemical agents and/or less lethal devices from a Department Commander, who holds the minimum rank of Assistant Chief.
  2. Each Precinct will maintain an emergency supply of chemical agents and less lethal devices to address an emergent life safety situation where there is insufficient time to obtain command approval or deploy the SWAT Team. The use of chemical agents and/or Patrol C.A.R.T force options requires approval of a trained supervisor and/or Watch Commander. It is also required that any personnel using the agent or device has completed all requisite training, as established by the Department's Training Section. Inventory control protocols and overall management of these emergency kits will be the responsibility of the Patrol Operations Bureau. Precinct management of each kit shall be assigned to the Precinct Commander, as delegated to the Watch and Operations Lieutenants.
    - a. The ATF requires that explosive munitions such as the C.A.R.T. blast ball grenades be stored using a double layer of security access.
- G. At all times, in the event of an immediate life safety situation where there is insufficient time to obtain command approval or deploy the SWAT Team, a sworn officer has the authority to use necessary force to address the life safety crisis. This use of force may include chemical agents and/or other Less Lethal devices.

#### XI. Reporting the Use of Force-when required

- A. Whenever an officer performing any law enforcement related activity uses deadly force, physical force or less lethal force as defined in Section I of this policy (on- or off-duty, inside or outside the City), the officer shall be required to complete a *Use of Force Statement* (form 9.27).

1. The reporting of the use of force for OC spray, impact munitions, the TASER, or Patrol C.A.R.T. is required, regardless of whether or not the subject is struck, affected or taken into custody.

## XII. Reporting Responsibilities

### A. Officers

1. Notify an on-duty supervisor. Request the supervisor's presence at the scene if three or more TASER applications were required, and/or circumstances requiring an on-scene medical evaluation exist.
2. Complete a *General Offense Report* with an Officer Statement, if necessary, on the MRE and submit it for approval.
3. Notify a supervisor in person of the need to approve the *General Offense Report* and to route an Alert VMAIL.
4. Complete a *Use of Force Statement* (form 9.27) with the following preface: "This is a true and involuntary statement given by me in compliance with Section 6.240 of the Seattle Police Department Manual."

NOTE: No other language will be acceptable.

5. At a minimum, include the following information in the statement:
  - a. A detailed description of the incident circumstances, and the words, actions and/or threat posed by the suspect warranting the need for force.
  - b. A detailed description of the force used, to include descriptive information regarding the use of any less lethal device/tool, i.e. TASER and Patrol C.A.R.T., and related serial numbers.
  - c. A description of any apparent injury to the suspect, any complaint of injury, or the absence of injury. Include information regarding any medical aid or on-scene medical evaluation provided.
  - d. Documentation of the in-person supervisory screening.
6. Complete a *Hazard Report* (form 5.38) if the suspect combatively resists or is physically aggressive toward an officer and the officer is reasonably certain the suspect is attempting to overpower, disable, or injure them.
7. Submit the *Use of Force Statement* (form 9.27), *Hazard Report* (form 5.38), and photographs (Polaroid, digital, or other) to a supervisor prior to going off-duty, unless otherwise directed by a commander of the permanent rank of lieutenant or above.
8. When an officer uses force and a *Use of Force Statement* (form 9.27) is required, an in person screening of the incident by a supervisor must occur prior to the release of the suspect and must be documented in the *General Offense Report*.

### B. Supervisors

1. Upon notification of a use of force, determine if it is necessary to respond to the scene. Absent extenuating circumstances, supervisors shall respond to the scene of any use of force incident that involved three or more TASER applications and/or circumstances requiring an on-scene medical evaluation.
2. Review and approve all documentation and MRE reports submitted by the officer(s) prior to officer going off-duty. Verify the existence of the preface language required in XII (A) (2) above in all *Use of Force Statements* (form 9.27).

3. Upon approval of the General Offense Report in the MRE, the supervisor shall send a VMAIL to the HALERT handle providing them with the General Offense Number and a request to expedite the transcription of the report.
4. Supervisors will take a photograph of each suspect involved in a Use of Force reporting, including those juveniles arrested for gross misdemeanors or felonies. A photograph will be taken in each incident regardless of the presence or absence of visible injury. Supervisors will not take Use of Force photos on the same memory cards as the Evidence memory cards for the GO report.
  - a. Supervisors will take frontal and rear photographs of the suspect. A minimum of four photographs will be taken.
    - (1) Minor wounds on the head and face tend to bleed a great deal. Officers will take a picture before and after any aid is given.
    - (2) The locations on the subject's body where force was applied should be photographed to document injury or lack of injury. (e.g., baton or beanbag impact site, TASER probe impact or drive stun site.)
    - (3) If any disrobing is required, have an officer of the same sex as the suspect take the pictures if possible. If not, restrict the photographs to where no disrobing is required and thoroughly document the injuries in the Use of Force Supervisors Report (form 1.40b). Additional officer and subject information will be included on the Use of Force Officer Supplemental (form 1.40c), and the Use of Force Supplemental Subject Information (form 1.40d).
  - b. Supervisors will take photograph(s) of the suspect only by voluntary, non-coercive means.
  - c. When relevant, supervisors should photograph the scene where the force occurred.
5. These images should not be stored on any networked computer but may be copied onto a CD.
  - a. The memory card for these images will be submitted to the Photographic Services Unit in the *Photographic Media Envelope* (form 50). The Photographic Services Unit will provide the requesting employee with prints, a CD or both.
  - b. Supervisors will check the "Administrative Images" box on the *Photographic Media Envelope* (form 50) and complete the field for a brief explanation what the images will be used for. The requesting unit's supervisor must sign the envelope prior to submission.
  - c. These images may also be printed on a Department printer as long as the images are not stored on a networked drive.
  - d. When the proof sheet is returned to the supervisor, it should be marked and initialed and then forwarded to the appropriate bureau chief to be included with the Use of Force packet.
6. Supervisors will not copy or retain any of the photos. Supervisors will place all original photos in the confidential Use of Force packet.
7. Supervisors will photograph and document any injury sustained by any officer, however minor. Complete the *Investigating Supervisor's Report of Employee Industrial Injury* (form 2.22) if an officer is injured.
8. Complete the *Use of Force Supervisors Report* (form 1.40b) and required supplemental reports, for every use of force incident. The "Supervisor's Summary of Incident" section of the form shall include the following:
  - a. A brief description of the incident and arrest.

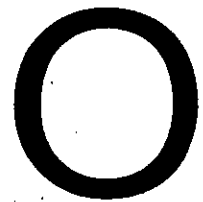
- b. A detailed description of the force used by the officer(s) and suspect(s). This will include physical aggression and resistance by the suspect(s) and any verbal statements and/or body language which are relevant. Use quotation marks when appropriate.
  - c. A detailed description of all incident related injuries sustained by the officer(s) or suspect(s). This will include all visible injuries, complaint of injuries or lack of injuries to the suspect(s).
    - (1) Include a SFD medic and/or hospital report and a brief summary of those documents. Include the names and phone numbers of medics, ambulance personnel and hospital staff who treated the suspect(s).
    - (2) Document whether or not the suspect's injuries are consistent with the description of the incident and force used.
    - (3) If applicable, document the suspect's decline of medical aid.
  - d. List all witnesses, to include other officers at scene and transport officers. Gather contact information for all civilian witnesses.
  - e. A detailed description of the actions of the investigating supervisor to include the following:
    - (1) In-person screening at the location of the incident, when practical.
    - (2) An interview of the suspect(s) to record the suspect's description of the incident, observations of the suspect's demeanor, injuries or lack thereof, and any statements.
    - (3) A review of the booking charges, General Offense Reports, Officer Statements and Use of Force Statements (form 9.27).
    - (4) Indicate if the force used by the officer(s) is within the Department's Use of Force policy.
9. Prepare a Use of Force packet. Include the following:
- a. The original *Use of Force Statement* (form 9.27)
  - b. The *Use of Force Supervisors Report* (form 1.40b), any supplemental reports if utilized, and the *Use of Force Command Review* (form 1.40e).
  - c. Photographs
  - d. Copies of all related PAPER reports
10. Forward the completed packet through the involved officer's chain of command.
11. For those incidents that are of a sensitive nature or where serious injury has occurred, immediately forward a copy of the Use of Force packet to the Captain using an Alert tag.
12. The Use of Force packet shall then be forwarded through the chain of command to the involved employee's Bureau Commander.

### XIII. Unusual Occurrences

- A. The use of force during Unusual Occurrences shall be reported following the procedures of this section; however, the Chief of Police or his designee may direct alternative use of force reporting procedures consistent with legal and policy requirements.
- B. Any alternative reporting procedures shall be clearly defined, and the Incident Commander shall ensure that all personnel conform to the reporting requirements.

XIV. Annual Analysis

- A. The Office of the Deputy Chief of Operations shall conduct a documented annual analysis of all reported uses of force by the Seattle Police Department.





# Seattle Police Department

## Policies & Procedures

*Search & Seizure*

Effective Date:

7/28/2010

### 6.120 – Impounding Vehicles

#### REFERENCES

CALEA standards, 1.2.4, 61.2.3, 61.4.2, 61.4.3.

SMC 11.30.105

#### POLICY

Generally, a vehicle should be impounded only after reasonable alternative dispositions have been eliminated. Officers may not impound a vehicle merely because an arrest has been made.

#### I. Alternatives to Impound

- A. Officers may leave a vehicle at the scene of an incident if the vehicle is not needed for police purposes. The vehicle may be:
  - 1. Legally parked and secured by an officer in the immediate area (with the permission of the owner or their authorized representative),
  - 2. Released to the owner (or their authorized representative), or
  - 3. Privately towed at the owner's request and expense.

#### II. Reporting the Impound of a Vehicle

- A. A specific reason must be indicated on the Parking Violation Ticket or *Vehicle Report* (form 5.5) when impounding a vehicle.
- B. Parking Violation Ticket
  - 1. The word "Impound" shall be written in the "Comments" box on the front of the Parking Violation.
  - 2. All Parking Violations marked for impound shall be separated from other parking tickets and delivered separately to the Seattle Municipal Court distribution boxes.
  - 3. A vehicle will not be impounded on a parking violation when the officer has arrested the occupants of the vehicle and other legal authority to impound exists.
    - a. For example, when arresting a driver for DUI and you are unable to make alternative arrangements for disposition of the vehicle, impound on a *Vehicle Report* (form 5.5), using the DUI General Offense Number (GON).
- C. *Vehicle Report* (form 5.5)
  - 1. Officers shall complete a *Vehicle Report* (form 5.5):
    - a. To document stolen vehicle recoveries and investigatory impounds, and
    - b. In any other situation when a vehicle is impounded for other than a parking violation.
  - 2. Approved reports will be forwarded to the Data Center following Department procedure.

### III. Impoundment without Prior Notice

- A. A vehicle may be impounded with or without citation and without giving prior notice to its owner only when:
1. The vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic;
  2. The vehicle is illegally occupying a truck, commercial load, bus, loading, hooded meter, taxi or other similar zone where, by order of the Director of Engineering or Chiefs of Police or Fire, parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days, or at all times, and where such vehicle is interfering with the proper and intended use of such zone;
  3. A vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person, as defined under RCW Chapter 46.16, is parked in a stall or space clearly and conspicuously marked, as provided in SMC 11.72.065A, whether the space is provided on private property without charge or on public property;
  4. The vehicle poses an immediate danger to public safety, (i.e., leaking gasoline, blocking fire zone or hydrant, etc.);
  5. An officer has probable cause to believe the vehicle is stolen and it is necessary to hold the vehicle as evidence (or to comply with the owner's request);
  6. An officer has probable cause to believe the vehicle constitutes evidence of a crime or contains evidence of a crime, and impoundment is reasonably necessary to obtain or preserve such evidence;
  7. When a vehicle is parked in a public right-of-way or on other publicly owned or controlled property in violation of any law, ordinance, or regulation and there are four (4) or more parking infractions issued against the vehicle for each of which a person has failed to respond, failed to appear at a requested hearing, or failed to pay an adjudicated parking infraction for at least forty-five (45) days from the date of the filing of the notice of infraction;
  8. When a vehicle is a "junk motor vehicle" as defined in SMC 11.14.268, and is parked on a street, alley, or way open to the public, or on municipal or other public property. "Junk motor vehicle" means any motor vehicle meeting at least three of the following requirements:
    - a. Left on private property without the permission of the person having a right to the possession of the property;
    - b. Left on a street, alley way open to the public or on municipal or other public property for seventy-two (72) hours or longer;
    - c. Extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, missing wheels, tires, motor or transmission;
    - d. Apparently inoperable;
    - e. Having a fair market value of Five Hundred Dollars (\$500.00) or less;
    - f. Without a current certificate of registration or a current and proper vehicle license.
  9. Impoundment of a Vehicle Used in the Commercial Sexual Exploitation of a Minor.
    - a. An officer arresting a person for the crimes of, Commercial Sexual Exploitation of a Minor, Promoting Commercial Sexual Abuse of a Minor or Promoting Travel for Commercial Sexual Abuse of a Minor, **must\*** impound the arrested person's vehicle if:

- (1) The motor vehicle was used in the commission of the crime; and
  - (2) The arrested person is a registered owner of the motor vehicle or it is a rental vehicle.
- b. The arresting officer will complete a Vehicle Report (form 5.5) listing: "VICE/Prostitution Hold" in the 'HOLD for investigation and release by box', and "Investigation of CSAM" or "Investigation of Promoting CSAM" or "Investigation of Promoting Travel for CSAM" written in the 'Reason for Hold/Investigation' box depending on the crime being investigated.
  - c. The narrative portion of the Vehicle Report (form 5.5) must state:
    - (1) "This vehicle is impounded pursuant to RCW 9.68A.100—Commercial Sexual Abuse of a Minor and is further being held for evidentiary purposes." or;
    - (2) "This vehicle is impounded pursuant to RCW 9.68A.101—Promoting Commercial Sexual Abuse of a Minor and is further being held for evidentiary purposes." or;
    - (3) "This vehicle is impounded pursuant to RCW 9.68A.102—Promoting Travel For Commercial Sexual Abuse of a Minor and is further being held for evidentiary purposes."
  - d. The arrested person will be given a copy of the Vehicle Report (form 5.5) and the *Impoundment of Vehicle Used in the Commercial Sexual Exploitation of a Minor Instruction Sheet* (form 20.2)
- \* State law mandates law enforcement to impound the offender's vehicle under these circumstances.

B. Absent exigent circumstances, consent, or some other legal authority, nothing in this section shall be construed to authorize search or seizure of a vehicle without a warrant where a warrant would otherwise be required.

#### IV. Impoundment with Prior Notice

- A. A vehicle may be impounded after notice has been given to the owner when such vehicle is parked or used in violation of any law, ordinance, or regulation on any street, alley, or municipal property.
- B. Notice of impound is made by securely attaching a *Notice of Violation - 72 hour Parking* (form 8.5) to the vehicle for a minimum period of 72 hours prior to impoundment, advising the owner that unless the violation is corrected, the vehicle will be impounded.
- C. When such vehicle is abandoned, as that term is defined in SMC 11.14.015.
- D. When such vehicle is so mechanically defective as to be unsafe for operations; provided, however, that this section shall not be construed to prevent the operation of any such defective vehicle to a place for correction of equipment defect in the manner directed by any peace officer.

#### V. DWLS Impound Decision

- A. Officers should exercise discretion in impounding vehicles operated by drivers with suspended licenses. In exercising that discretion, the officer must consider reasonable alternatives to impound. The exercise of discretion, however, does not require officers to consider all possible alternatives. The reasoning underlying the decision to impound (for example, to reduce or eliminate an immediate risk; an impound at the request of the owner or driver) should be documented.
- B. An officer considering a DWLS impound should consider the following factors:
  1. Whether the vehicle is legally parked and secured.
  2. Whether a licensed, authorized agent of the owner is immediately available to remove the vehicle.

3. Whether the vehicle appears sufficiently mechanically sound to be safely driven from the scene by a lawful driver.
  4. Whether the vehicle can be easily moved to a legal and secure location.
  5. Whether the vehicle or alternative driver is properly insured (document evidence of insurance).
  6. If released, whether the vehicle is likely to be driven immediately by the person (or another person) whose license is suspended or revoked.
  7. The level of the driver's suspension offense. (Officers are reminded that they cannot impound a vehicle solely for a DWLS III violation).
  8. Whether the driver has an outstanding warrant that will lead to arrest.
  9. Whether an immediate private tow at the owner's request and owner's expense is reasonably available.
  10. Whether impound would create an undue hardship or risk for the occupants of the vehicle or others (e.g. small child or disabled person in the car, vehicle owned by suspended driver's employer and employer can be contacted to retrieve vehicle).
- C. Additional factors to consider if vehicle is released:
1. Document the release of the vehicle to a specific person.
  2. Do not allow a non-licensed agent of the owner to drive.
  3. Potential drivers who are impaired are not candidates to drive the vehicle.
  4. Document any person who accepts responsibility to remove the vehicle on behalf of the owner.
- D. Document the factors used in your exercise of discretion. Discretion does not require consideration of all possible alternatives to securing the vehicle, only those alternatives that are reasonable and immediately available.
- E. The officer will complete a Vehicle Report (form 5.5) listing, "DWLS" in the "Hold For Investigation and Release By" box, and listing, "DWLS 1<sup>st</sup> or DWLS 2<sup>nd</sup> or DWLS 3<sup>rd</sup>" in the Reason For Hold/Investigation box *before* distributing the Form to Data Center, the Tow Company and the Owner.

## VI. Vehicle Inventory

- A. Officers shall make a routine inspection of an impounded vehicle for items of value unless the vehicle is impounded on an investigatory hold. Absent exigent circumstances, consent, or some other legal authority, nothing in this section shall be construed to authorize a search or seizure of a vehicle without a warrant where a warrant would otherwise be required.

## VII. Medical Examiner Holds

- A. When an officer impounds a vehicle in the course of an investigation involving a death, but where the vehicle itself is not related to the death and holds no evidentiary value, officers are to place a 'hold' on the vehicle and write, "Hold for Medical Examiner's Office" in the narrative portion of the *Vehicle Report* (form 5.5). All questions surrounding the release of the vehicle should be directed to the King County Medical Examiner's Office.