

Chapter 10.116 RCW
PEACE OFFICERS—TACTICS AND EQUIPMENT

Sections

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RCW 10.116.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Law enforcement agency" includes any "general authority Washington law enforcement agency" and any "limited authority Washington law enforcement agency," as those terms are defined in RCW 10.93.020, and any state or local agency providing or otherwise responsible for the custody, safety, and security of adults or juveniles incarcerated in correctional, jail, or detention facilities. "Law enforcement agency" does not include the national guard or state guard under Title 38 RCW or any other division of the United States armed forces.

(2) "Peace officer" includes any "general authority Washington peace officer," "limited authority Washington peace officer," and "specially commissioned Washington peace officer" as those terms are defined in RCW 10.93.020, and any employee, whether part-time or full-time, of a jail, correctional, or detention facility who is responsible for the custody, safety, and security of adult or juvenile persons confined in the facility. [2021 c 320 § 1.]

RCW 10.116.020 Chokehold or neck restraint prohibited. (1) A peace officer may not use a chokehold or neck restraint on another person in the course of his or her duties as a peace officer.

(2) Any policies pertaining to the use of force adopted by law enforcement agencies must be consistent with this section.

(3) For the purposes of this section:

(a) "Chokehold" means the intentional application of direct pressure to a person's trachea or windpipe for the purpose of restricting another person's airway.

(b) "Neck restraint" refers to any vascular neck restraint or similar restraint, hold, or other tactic in which pressure is applied to the neck for the purpose of constricting blood flow. [2021 c 320 § 2.]

RCW 10.116.030 Use of tear gas. (1) A law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a: (a) Riot; (b) barricaded subject; or (c) hostage situation.

(2) Prior to using tear gas as authorized under subsection (1) of this section, the officer or employee shall:

- (a) Exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances;
 - (b) Obtain authorization to use tear gas from a supervising officer, who must determine whether the present circumstances warrant the use of tear gas and whether available and appropriate alternatives have been exhausted as provided under this section;
 - (c) Announce to the subject or subjects the intent to use tear gas; and
 - (d) Allow sufficient time and space for the subject or subjects to comply with the officer's or employee's directives.
- (3) In the case of a riot outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after: (a) Receiving authorization from the highest elected official of the jurisdiction in which the tear gas is to be used, and (b) meeting the requirements of subsection (2) of this section.
- (4) For the purposes of this section:
- (a) "Barricaded subject" means an individual who is the focus of a law enforcement intervention effort, has taken a position in a physical location that does not allow immediate law enforcement access, and is refusing law enforcement orders to exit.
 - (b) "Highest elected official" means the county executive in those charter counties with an elective office of county executive, however designated, and in the case of other counties, the chair of the county legislative authority. In the case of cities and towns, it means the mayor, regardless of whether the mayor is directly elected, selected by the council or legislative body pursuant to RCW 35.18.190 or 35A.13.030, or selected according to a process in an established city charter. In the case of actions by the Washington state patrol, it means the governor.
 - (c) "Hostage situation" means a scenario in which a person is being held against his or her will by an armed, potentially armed, or otherwise dangerous suspect.
 - (d) "Tear gas" means chloroacetophenone (CN), O-chlorobenzylidene malononitrile (CS), and any similar chemical irritant dispersed in the air for the purpose of producing temporary physical discomfort or permanent injury, except "tear gas" does not include oleoresin capsicum (OC). [2021 c 320 § 4.]

RCW 10.116.040 Military equipment. (1) A law enforcement agency may not acquire or use any military equipment. Any law enforcement agency in possession of military equipment as of July 25, 2021, shall return the equipment to the federal agency from which it was acquired, if applicable, or destroy the equipment by December 31, 2022.

(2) (a) Each law enforcement agency shall compile an inventory of military equipment possessed by the agency, including the proposed use of the equipment, estimated number of times the equipment has been used in the prior year, and whether such use is necessary for the operation and safety of the agency or some other public safety purpose. The agency shall provide the inventory to the Washington association of sheriffs and police chiefs no later than November 1, 2021.

(b) The Washington association of sheriffs and police chiefs shall summarize the inventory information from each law enforcement agency and provide a report to the governor and the appropriate committees of the legislature no later than December 31, 2021.

(3) For the purposes of this section:

(a) "Military equipment" means rifles of .50 caliber or greater, machine guns, armed helicopters, armed or armored drones, armed vessels, armed vehicles, armed aircraft, tanks, long range acoustic hailing devices, rockets, rocket launchers, bayonets, grenades, missiles, directed energy systems, and electromagnetic spectrum weapons.

(b) "Grenade" refers to any explosive grenade designed to injure or kill subjects, such as a fragmentation grenade or antitank grenade, or any incendiary grenade designed to produce intense heat or fire. "Grenade" does not include other nonexplosive grenades designed to temporarily incapacitate or disorient subjects without causing permanent injury, such as a stun grenade, sting grenade, smoke grenade, tear gas grenade, or blast ball.

(c) "Rifle" has the same meaning as provided under RCW 9.41.010, except "rifle" does not include: Any shotgun, as defined under RCW 9.41.010; any device designed or used to deploy less lethal munitions including, but not limited to, rubber, bean bag, soft nose, sponge, or other nonpenetrating impact rounds; or any less lethal equipment.

(4) This section does not prohibit a law enforcement agency from participating in a federal military equipment surplus program, provided that any equipment acquired through the program does not constitute military equipment. This may include, for example: Medical supplies; hospital and health care equipment; office supplies, furniture, and equipment; school supplies; warehousing equipment; unarmed vehicles and vessels; conducted energy weapons; public address systems; scientific equipment; and protective gear and weather gear. [2022 c 3 § 1; 2021 c 320 § 5.]

Effective date—2022 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 4, 2022]." [2022 c 3 § 2.]

RCW 10.116.050 Peace officers—Reasonably identifiable. All law enforcement agencies shall adopt policies and procedures to ensure that uniformed peace officers while on duty and in the performance of their official duties are reasonably identifiable. For purposes of this section, "reasonably identifiable" means that the peace officer's uniform clearly displays the officer's name or other information that members of the public can see and the agency can use to identify the peace officer. [2021 c 320 § 6.]

RCW 10.116.060 Vehicular pursuit. (1) A peace officer may not engage in a vehicular pursuit, unless:

(a) There is reasonable suspicion to believe that a person in the vehicle has committed or is committing:

- (i) A violent offense as defined in RCW 9.94A.030;
- (ii) A sex offense as defined in RCW 9.94A.030;
- (iii) A vehicular assault offense under RCW 46.61.522;
- (iv) An assault in the first, second, third, or fourth degree offense under chapter 9A.36 RCW only if the assault involves domestic violence as defined in RCW 10.99.020;
- (v) An escape under chapter 9A.76 RCW; or
- (vi) A driving under the influence offense under RCW 46.61.502;

(b) The pursuit is necessary for the purpose of identifying or apprehending the person;

(c) The person poses a serious risk of harm to others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicular pursuit under the circumstances; and

(d) (i) Except as provided in (d) (ii) of this subsection, the pursuing officer notifies a supervising officer immediately upon initiating the vehicular pursuit; there is supervisory oversight of the pursuit; and the pursuing officer, in consultation with the supervising officer, considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle;

(ii) For those jurisdictions with fewer than 15 commissioned officers, if a supervisor is not on duty at the time, the pursuing officer requests the on-call supervisor be notified of the pursuit according to the agency's procedures, and the pursuing officer considers alternatives to the vehicular pursuit, the justification for the vehicular pursuit, and other safety considerations, including but not limited to speed, weather, traffic, road conditions, and the known presence of minors in the vehicle.

(2) In any vehicular pursuit under this section:

(a) The pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for designating the primary pursuit vehicle and determining the appropriate number of vehicles permitted to participate in the vehicular pursuit;

(b) The supervising officer, the pursuing officer, or dispatcher shall notify other law enforcement agencies or surrounding jurisdictions that may be impacted by the vehicular pursuit or called upon to assist with the vehicular pursuit, and the pursuing officer and the supervising officer, if applicable, shall comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable;

(c) The pursuing officer must be able to directly communicate with other officers engaging in the pursuit, the supervising officer, if applicable, and the dispatch agency, such as being on a common radio channel or having other direct means of communication;

(d) As soon as practicable after initiating a vehicular pursuit, the pursuing officer, supervising officer, if applicable, or responsible agency shall develop a plan to end the pursuit through the use of available pursuit intervention options, such as the use of the pursuit intervention technique, deployment of spike strips or other tire deflation devices, or other department authorized pursuit intervention tactics; and

(e) The pursuing officer must have completed an emergency vehicle operator's course, must have completed updated emergency vehicle operator training in the previous two years, where applicable, and must be certified in at least one pursuit intervention option. Emergency vehicle operator training must include training on performing the risk assessment analysis described in subsection (1) (c) of this section.

(3) A vehicle pursuit not meeting the requirements under this section must be terminated.

(4) A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious

physical harm resulting from the operator's or a passenger's use of a deadly weapon. For the purposes of this subsection, a vehicle is not considered a deadly weapon unless the operator is using the vehicle as a deadly weapon and no other reasonable means to avoid potential serious harm are immediately available to the officer.

(5) For purposes of this section, "vehicular pursuit" means an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer. [2023 c 235 § 1; 2021 c 320 § 7.]

Effective date—2023 c 235: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 3, 2023]." [2023 c 235 § 2.]