

CLERK FILE NO. 304982

Seattle Police Department Response to the 2001 Annual Report of the Citizen Observer Report.

REPORT OF THE COMMITTEE

Honorable President

*Ji*

The \_\_\_\_\_  
to which was referred this file, respectfully reports that the same was considered and the recommendation is

*Mr. Deen aye*  
*Compton aye*

Date Filed with Clerk February 14, 2003  
Referred by Marypat Carter City Clerk Staff

**Filed 60**  
**3-24-03 ~~Confirmed~~**  
**(Excused: Compton, Drago, McVee)**

ACTION OF THE COUNCIL

Referred	To	<b>Police, Fire, Courts &amp; Technology Committee</b>
<b>FEB 25 2003</b>		
Referred	To	
Referred	To	
Reported	Disposition	
Re-referred	To	
Reported	Disposition	<b>Confirmed</b>
<b>3-24-03</b>		

Chair



# City of Seattle

Gregory J. Nickels, Mayor

## Seattle Police Department

R. Gil Kerlikowske, Chief of Police

February 12, 2002

FILED  
CITY OF SEATTLE  
02 FEB 14 AM 10:04  
CITY CLERK

Honorable Greg Nickels, Mayor  
City of Seattle  
600 Fourth Avenue  
Municipal Building, 12<sup>th</sup> Floor  
Seattle, WA 98104

Dear Mayor Nickels:

This letter serves as the Police Department's response to the year 2001 Annual Report of the Citizen Observer to the Firearms Review Board. Kenneth C. Burton has served as the Citizen Observer since his July 2000 appointment. Kenneth Burton participated in eight Firearms Review Boards in the year 2001. Alternate Citizen Observer Suzanne Adams participated in one Firearms Review Board in the year 2001. A copy of Kenneth Burton's report is attached for reference.

Briefly, the Firearms Review Board is an internal administrative board that convenes when there has been an intentional police firearms discharge and when deemed necessary for accidental discharges. The Board reviews the testimony and facts to determine if the discharge is in compliance with Department policy. The Board makes findings and recommendations that are submitted to the Chief of Police for final review and approval.

In 2001, the Department adopted a new protocol for responding to officer-involved shooting and other serious incidents. Under this protocol, a Deputy Chief responds to the scene of all such incidents in order to ensure the interests of the Chief of Police in protecting the integrity of the investigation, obtaining timely and accurate information, and addressing community relations issues that may surround the incident. This protocol establishes an advisory committee consisting of a cross-section of the Department as well as representatives from the King County Prosecutor.

When the discharge of a firearm involves a fatality, a Deputy Chief chairs the Firearms Review Board. All other Firearms Review Boards are chaired by an Assistant Chief. Remaining members of the Board are a Captain, the Commander of the Training Section, and a Lieutenant. There are also two Board observers who are non-voting members of the Board. One is the Citizen Observer and the other is an observer from the bargaining unit representing the involved officer.

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In his report, Mr. Burton commented on and made recommendations in seven areas. These are addressed below.

### Recommendations

1. **Moving Target Training:** The Seattle Police Department (SPD) currently has moving target training in the Street Skills Training Program. Mr. Burton has recommended additional moving target training based upon officer input to the Firearms Review Boards. The Firearms Review Board Chair has recommended that our Training Section review some of our recent shooting incidents in order to determine ways to improve training in the area of officer safety and firearms proficiency. We concur with Mr. Burton's recognition of the value of training as well as his understanding of the associated staffing and budget considerations.
2. **Budget Item: Simulator Shoot Don't Shoot Training:** Again, we appreciate Mr. Burton's recognition of staffing and budget considerations relative to the simulator training. The SPD training simulator is a state of the art training tool but due to its size and weight, it is not practical to transport it to the precincts without a special towing vehicle. Currently, the simulator is used for special training courses and by our Special Weapons and Tactical Team (SWAT) and Gang Squad. The operation of this simulator for expanded training would require additional staffing for the Training Section. I have recently approved two Firearms Instructors working on Monday evenings to provide range and simulator training for officers who would not normally be able to get to the range because of their shift.
3. **Vicious Dogs:** Captain Tom Byers is working with Barbara Clemons, aide to City Councilperson Jan Drago, and Don Jordan, Executive Services Department Animal Control, to explore legislation that creates more accountability for owners of vicious animals and lowers the bite threshold for enforcement. The Department welcomes these efforts.
4. **Disclosure of Less Lethal Incidents:** Mr. Burton was provided a copy of the SPD Special Report on Use of Force by Seattle Police Department Officers (November 2001) which addresses the questions he had about the deployment of less lethal weapons. We are continuing the on-going training and deployment of less lethal weapons. We are pleased that Mr. Burton recognizes that SPD has a lower incidence of the use of deadly force when compared with the other thirty-two largest municipalities in the nation. Additionally, we are pleased that Mr. Burton has personally observed that our Department is restrained in the use of deadly force based upon testimony and evidence from the Firearms Review Boards.

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5. **Recommend Redraft of Chapter 145 Use of Force:** We will soon distribute a revised manual section 1.145 Use of Force. The SPD construction of this policy mirrors the Revised Code of Washington (9A.16.040) in terms of definitions. The statutory definition of violent felonies is included. The revised Use of Force policy also meets the Commission on Accreditation for Law Enforcement Agencies (CALEA) standards. The Department is preparing to have its policies, practices, and training reviewed by this outside body. Additionally, the revised Use of Force policy contains more restrictive language for the circumstances when an officer may fire from or at a moving vehicle. The revised policy states that discharging a firearm from or at a moving vehicle is an extreme measure that may only be taken under highly unusual circumstances and generally when all other reasonable alternatives have been exhausted or would be perceived as unacceptable.
6. **Recommend Internal Disclosure of Firearm Incidents:** The Firearms Review Board Administrator has implemented a practice of requesting that the Training Section review selected Firearms Review Board cases. The Training Section will implement the recommendations of the Board into our training, when appropriate. While the Training Section Commander (or representative) is a regular member of the Board for purposes of evaluating training needs, this practice is designed to ensure that we continually learn from these incidents and improve on our tactics and deployment of deadly force. We have discussed with Mr. Burton the distribution of the Firearms Review Board Final Report to all Precinct Commanders for purposes of roll call training. However, we feel that the most effective method of incorporating the lessons learned from these incidents is to integrate them into our Department-wide training curriculum.
7. **Warning Shots:** As our Special Report on Use of Force indicates, the national standard among police agencies is not to fire warning shots. A review of law enforcement policies of comparable cities verified this trend. Warning shots are high-risk actions. Urban density poses greater risk of errant shots striking unintended targets, such as innocent bystanders. Mr. Burton observed that our Department training or policy does not address shots to maim. Most police shooting incidents last three seconds or less and are at a close distance. The officer's actions are typically reactive with the intent to stop the immediate threat and protect life. In Seattle, as in other law enforcement agencies, officers are trained that the most certain and effective way to stop armed and dangerous assailants is to aim for the "center of mass". According to the International Association of Chiefs of Police (IACP), aiming for "center of mass" results in maximum stopping effectiveness and minimal danger to innocent bystanders.

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In Mr. Burton's report, he indicates that SPD has a no racial profiling policy in progress. The Department published a policy statement prohibiting racial profiling in August 2000. In addition, Revised Manual Section 2.010 will be distributed in the near future. This policy specifically prohibits citizen contacts based solely on an individual's race, religion, national origin, gender, sexual orientation, or economic status. Professional and legal guidelines for initiating citizen contacts and stops will be included in this policy. This policy revision follows the recommendations contained in the Police Executive Research Forum's recently issued handbook, *Racially Biased Policing-A Principled Response* (2001).

In closing, I would like to thank Mr. Kenneth Burton for his dedication to the community by participating in the Firearms Review Board process. The role of the Citizen Observer is vital to maintaining public confidence in our Department and to gaining a perspective from the insights and recommendations of a community member.

Sincerely,



R. Gil Kerlikowske  
Chief of Police

RGK:tab

Attachments

cc: City Council (9)  
Tom Carr, Seattle City Attorney  
✓ Judith Pippin, Seattle City Clerk  
Captain Tom Byers

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CITY CLERK

To:  
Mayor Paul Schell  
Mayor Elect Greg Nickels  
Chief R. Gil Kerlikowske  
Assistant Chief Debbie Allen  
City Attorney Mark Sidran  
City Council President Margaret Pageler  
Public Safety Committee Chair Jim Compton  
City Council Members

From: Kenneth C. Burton, Firearms Review Board Citizen  
Observer

Re: Seattle Police Department Firearms Review Board Citizen  
Observer Report, 2001

Date: December 4, 2001

Attached hereto is the Firearms Review Board Citizen  
Observer Report, 2001. I look forward to meeting with the  
Council at a mutually convenient date for appearing at the  
call of the Chair of the Public Safety Committee.

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SEATTLE SPD DEPARTMENT FIREARMS REVIEW BOARD  
CITIZEN OBSERVER REPORT  
December 4, 2001

Ordinance Requirements

Ordinance 118482 (the "Ordinance"), passed by the City Council on February 3, 1997, created the Citizen Observer position on the Firearms Review Board (the "FRB"). By December 1, of each year the Citizen Observer is to make recommendations for any additional staff training and policy or procedural changes within the framework of applicable law or labor agreements (hereafter the "Citizen Observer Report" or "Report") for the Seattle SPD Department (SPD). This Report is delayed one day as the result of a FRB Hearing held December 3, 2001.

The Ordinance requires that the Report not contain any recommendations concerning any particular SPD officer or information leading to the identity of a specific incident. This Report adds no information to any specific incident not made public knowledge in the local media. Within this framework the Citizen Observer Report is limited to a general description of the FRB proceedings attended, whether a finding of justified or unjustified discharge of firearm was made by the FRB, and a summary of issues, problems and trends noted by the Citizen Observer.

Hearings Attended and Result of Hearings

This Citizen Observer began service in August 2000. From January 1, 2001 through November 30, 2001 there have been twelve incidents in which SPD discharged firearms. There has been seven FRB Hearings held for those discharges of which the Citizen Observer attended six and the Alternate Citizen Observer attended one. Two firearm discharges were accidental off duty and no FRB Hearings were held in those incidents. There are three pending FRB Hearings. They are scheduled in December after the date of this Report.

In the seven FRB Hearings held, three FRB Hearings involved SPD firearm discharges resulting in death of the person who was being shot at (two of whom were shooting at the SPD), one FRB Hearing involved SPD shooting at a person in a moving car, one FRB Hearing involved an incident which resulted in the SPD shooting at each other, one involved the SPD shooting a pit bull and one FRB Hearing involved an accidental discharge at a public place which was resulted in no injury or property damage. Per newspaper media, two scheduled FRB Hearings may involve a robbery suspect who was armed with a firearm and was aiming /firing at the SPD and a SPD firearm discharge after an unsuccessful SPD attempt to use less lethal force. The other incident involves the SPD again finding it necessary to shoot a pit bull.

The FRB found all three incidents that involved fatal shots being fired by the SPD justified. The incident involving SPD shots at a moving car has resulted in ongoing attempts to draft new language to the SPD Policies and Procedures Chapter 145-Use of



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Force Section IV Discharge of Firearms, Sub D, Firing at or From a Vehicle to better phrase when it is appropriate to shoot at a moving car. The incident, which resulted in the SPD shooting at each other, resulted in additional training for an officer.

Organization of FRB Hearings and Trends

Overall the Citizen Observer found the FRB Hearings very well organized and aimed at getting to the issues, (1) was the shooting justified or not, (2) could the incident been handled better and (3) could anything be learned to assist in additional training or improved procedures. The FRB Hearings vary in length and amount of people involved depending on the circumstances. The longest FRB Hearing attended by the Citizen Observer stretched over four days and involved dozens of people. By years end the Citizen Observer will have spent in excess of one hundred hours (100) on reviewing FRB Board materials, attending FRB Hearings and reporting to the City Council. There was nothing presented at any of the FRB Hearings attended to date which would suggest that SPD Administration could or should have done anything differently prior to the incidents which resulted in FRB Hearings, that would have created a better result. As mentioned however, some additional training is being required for one officer and the policy of shooting at a moving car is being redrafted.

The Citizen Observer is pleased to report a trend of the Chief of SPD appearing at the scene of incidents where the SPD use deadly force. This has in at least one incident greatly assisted in quelling false rumors about the circumstances under which deadly force was used. This should be continued whenever possible.

The Citizen Observer has in the past recommended that diversity training be given/offered to the SPD. The Chief of SPD has made and distributed a "Statement on Racial Profiling" dated August 21, 2000. The Citizen Observer has been made aware that the SPD has a no racial profiling policy in progress, that there is a racial profiling task force and that use of video cameras in patrol cars is in progress. These are all positive trends.

Recommendations

Budget Item: Moving Target Training

The SPD has had a Street Skills Training Program for a year now. The testimony at the FRB Hearings indicates that this training is generally well received. There is moving target training in the Street Skills Program. However it has come up on more than one occasion that additional moving target training would be beneficial. Presently the officers are also required to pass an annual shooting certification test. That is not actual training but may lead to time at the firing range in the event that the test is not passed. The testimony at the FRB Hearings is that actual required target practice at moving targets be instituted. The budget problem here is that the time for such target practice would have to be during working hours and there would be a deployment issue created as on duty SPD were given moving target practice training.

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Budget Item: Simulator Shoot Don't Shoot Training

The SPD has a very nice simulator at the firing range. This simulator is used to provide SPD with scenarios to developing appropriate shoot don't shoot response. Unfortunately the simulator does not get much use. It takes two personal to run it. In addition it is very sensitive to slope. It must be operated on a flat surface. Most of the precincts do not have the appropriate topography to run the simulator. Lastly it would be helpful if the programs run on the simulator could include less lethal alternatives. There is a similar budget problem to that of moving target training. The budget problem here is that the time for simulator training would have to be during working hours and there would be a deployment issue created as on duty SPD were given simulator training. It would be great to get a simulator that could be taken to the precincts for use there.

Vicious Dogs

This issue is being revisited. There are vicious dogs in the city. The SPD are often called in as a line of defense, bc it first or last, and often end up using deadly force to avoid getting bitten themselves. Two of the twelve uses of deadly force by SPD this year involved pit bulls. In one case less lethal force was unsuccessfully used against a vicious dog. The less lethal did have the desired affect of getting the dog in a better position for backdrop purposes and the subsequent use of deadly force, but it did not result in deadly force not being required. On some of the occasions when deadly force is used to shoot these dogs the responding SPD are aware that there may have been a number of previous responses or complaints about the dogs at the address they are responding to. The concern is that there may be a person accidentally shot. They SPD are very aware of the backdrop requirement in these cases. However perhaps the City Council can give the officers some help by enacting a one-bite ordinance or do something to assist animal control to further limit vicious dogs before the SPD are called in to deal with them.

Disclosure of Less Lethal Incidents

This Citizen Observer has filed two previous reports, December 1, 2000 and an interim report July 10, 2001. In both reports the Citizen Observer suggested that it would be helpful to have information on the use of less lethal weapons by the SPD. In my December 1, 2000 Report I stated that; "It would appear to the Citizen Observer that the availability of new weapons for non lethal force could have some effect on the times when lethal force might or would be previously be appropriate under Chapter 145. The use of non-lethal force instead of deadly force may simply be the availability of non-lethal force at the time lethal force is otherwise authorized."

The Citizen Observer has not had an opportunity to review the use of less lethal report recently put out by the SPD. The Citizen Observer has read that the SPD has used the less lethal weapons about eighty (80) times with a high rate of success (Seattle Times November 28, 2001. This report may answer concerns that the Citizen Observer has regarding the potential use of deadly force by SPD due to the lack of availability of less lethal force. Unfortunately the Citizen Observer has not been provided any report by the SPD on the use of less lethal so the Citizen Observer remains unable to state that the SPD has the capacity to more often than not have the ability to use less lethal as a potential first option in appropriate situations. The reason that the Citizen Observer is particularly



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interested about the use of less lethal force is to help the Citizen Observer in his analysis of whether the policy directive in Chapter 145-Use of Force stating that "Personnel shall use only the minimal amount of force necessary to overcome physical aggression or resistance to compliance with lawful process," is being accomplished or complied with.

We are quite pleased to learn that the SPD has an outstanding low record on the use of deadly force when compared with the other fifty largest municipalities in the country (Seattle Times November 14, 2001). This is congruent to the Citizen Observer's observations. It appears to the Citizen Observer that the SPD is restrained in their use of deadly force (number of shots fired in any particular incident) given the testimony and evidence produced at a number of the FRB Hearings attended by the Citizen Observer. The referenced article suggests the SPD has a comparatively low number of incidents in which shots are fired at all.

Recommend Redraft of Chapter 145 Use of Force

Chapter 145, is apparently modeled after a US Supreme Court case Tennessee vs. Garner. Chapter 145, is said to make use of deadly force by SPD less restrictive than state law requires. However, Chapter 145 is hard to read. In sum what it states may be that an officer is justified in using deadly force whenever the officer believes there is a threat of serious physical harm to the officer or another. The Citizen Observer believes that the rule's use of deadly force should be as plain and clear as possible. In my mid year testimony before the Public Safety Committee I noted several instances of inconsistencies between state law and internal inconsistencies in Chapter 145 concerning use of force. Item (2) below is being worked on. The other matters are still present and should be resolved. Some of the examples I gave at that time are:

- (1) 145 III Sub A. gives circumstances which may be considered by an Officer as a "threat of serious physical harm" and then one of the circumstances given uses the same phrase "serious physical harm" which doesn't really add to the definition of "serious physical harm." Also Serious Harm is not defined. RCW 9A16.030 Homicide -When Excusable also refers to Serious Bodily Harm But RCW 9A.04.110 only defines Substantial and Great Bodily Harm
- (2) There may be reason to include some notion of "imminent threat of Substantial or Great Bodily Harm" in certain circumstances for use of a firearm. This may be particularly appropriate when the 145 IV D provides circumstances in which firing at a vehicle is currently allowed.
- (3) There should probably be some policy and procedural limitation on using deadly force to effect the arrest of a person for a felony. The felony might be referred to as a Crime of Violence RCW 12.A.14.010.

The current SPD Chief undertook the process of having the SPD accredited by a Commission on Accreditation of Law Enforcement Agencies. The SPD is now approximately 90% compliant. Compliance may result in changes to Chapter 145.



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Recommend Internal Disclosure of Firearm Incidents

At one of the FRB Hearings the SPD Guild Member noted that there was no internal disclosure of the incidents in which deadly force was used by the SPD. The incidents may eventually be adapted to training scenarios, but there is no present SPD disclosure about the use of deadly force by the SPD directly to the precincts. The Citizen Observer advocates internal disclosure of the FRB Hearings Reports to all SPD Precinct Commanders for use at the precinct level to provoke discussion about the incidents, tactics used and recommendations made. It is my understanding that such distribution shall be made. The distribution will be made with the recommendation from the Chief that discussion of the FRB Hearing Reports be done at roll call or some suitable forum. The FRB Board Reports include information like crime scene description, SPD deployment and what worked or could have been done better. I believe this will be a good training tool.

Warning Shots

From time to time the public discourse contains dialogue about the SPD and the lack of use of warning shots or shots to maim instead of kill. Chapter 145, states no warning shots. There is no provision of training for shots to maim. Any changes here would have to be made after reviewing firearm discharge law nationwide and calling in national experts for consultation. I am not aware of any such procedures elsewhere but I have not undertaken independent research of the matter.

Respectfully submitted this 4th day of December 2001.

Kenneth C. Burton, Citizen Observer Firearms Review Board

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# Seattle Police Department DIRECTIVES



Date: 9/14/00

Directive: D 00-66

## STATEMENT ON RACIAL PROFILING

### STATEMENT

WE RECOGNIZE the following to be true:

That the Seattle Police Department is committed to providing law enforcement and public safety services of the highest quality and professionalism to all persons.

Those enforcement decisions based solely on race have no acceptable or legal place in professional law enforcement or public safety operations.

That the Seattle Police Department and other law enforcement agencies of good conscience have been concerned that instances of persons being stopped or detained by law enforcement personnel solely on the basis of race have occurred in parts of our nation.

That both the United States and Washington State constitutions protect persons from infringement of their rights, except pursuant to due process of law, when there is reasonable suspicion or probable cause to believe they have committed an offense.

That some individuals in our community, particularly within communities of color, perceive that law enforcement officials engage in discriminatory enforcement practices and believe they have been the target of unlawful and inappropriate law enforcement scrutiny and attention.

That discrimination – real or perceived – erodes the confidence that all persons must have in law enforcement if we are to fulfill our mission of keeping people safe. Trust between the Police and the people they serve is an essential element in a democracy.

LET IT THEREFORE BE KNOWN, throughout this community and elsewhere:

That the Seattle Police Department does not train, teach, endorse, support or condone law enforcement or public safety practices based solely on race; and

That the Seattle Police Department is committed to legal and constitutionally valid police practices free of discrimination engendered by race and that this expectation and right extends to all people.

IN RECOGNITION of the importance of these principles, this Statement of Policy is signed.

  
R. Gil Kerlikowske, Chief of Police

Date: 21 Aug 2000



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## SPD SPECIAL REPORT

# Use of Force by Seattle Police Department Officers

Citizen/police encounters resulting in the use of force and in particular the use of deadly force, by police officers can provoke strong reaction in the community. This is as it should be. In a civil and civilized society, the resort to violence, even by duly constituted authority, should give us pause.

Fortunately, incidents involving police use of force are infrequent. Their relative infrequency, however, intensifies their significance as singular events and makes them difficult to interpret and understand. Moreover, the rarefied atmosphere surrounding most police shootings is more suited to examining the dynamics of the circumstances and individuals involved in these incidents, than to drawing larger lessons or conclusions. And any attempt to place these incidents in context, or to "learn from" them, can appear to rob such events of their individual seriousness.

Despite these difficulties, understanding police use of force is fundamental to understanding what it means to live in a free society governed by the rule of law. The purpose of this report is to contribute to community understanding of this important issue by examining use of force by Seattle Police Department officers and placing it in both its historical and national contexts. The report consists of three sections: (1) use of force by police officers across the nation and in SPD, (2) fatal shootings by police officers across the nation from 1990-2000, and by SPD officers from 1980 to present, and (3) use of less lethal force options across the country and in Seattle.



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## Executive Summary of Findings Contained in Report

### Findings Concerning the Police Use of Force

Nationally	Seattle
Nationally, it is estimated that just under 1% of citizen-police contacts involve the use of force.	In Seattle, use of force in police-citizen contacts is even lower than that reported nationally. Only 0.13% of responses to dispatched calls and of the traffic stops and on-view events logged in 2000 resulted in the use of force.
Nationally, police officers tend to use force at the low end of the spectrum, employing hands or fists in 87% of incidents; use of firearms, on the other hand, occurs in 5% of use of force incidents.	For the year 2000, the most common type of force used by Seattle police officers were their hands, reported in about three fourths of use of force incidents. There were nine firearms discharges by Seattle officers in 2000, two of them accidental.

### Findings Concerning Police Use of Deadly Force

The Seattle Police Department ranks behind most other large jurisdictions as well as other major city police departments when rates of fatal uses of deadly force are compared using a variety of measures. In particular, SPD is below the median for the thirty two largest, urban law enforcement agencies on the following measures: fatal shootings per 100,000 residents, fatal shootings per 1,000 sworn officers, fatal shootings per 10,000 violent crimes, and fatal shootings per 10,000 arrests for any type of crime.

### Findings Concerning Police Use of Less Lethal Force Options

Nationally	Seattle
Nationally, crisis intervention training (i.e., training to defuse and peacefully resolve situations involving persons in crisis) appears to be limited to what officers receive as recruits in their basic training academy, and less often to officers in hostage negotiation or crisis response units.	The Seattle Police Department has a greater investment in crisis intervention training (CIT) for first responding officers. Presently, 185 patrol officers have received 40-hour CIT training and another 200 patrol officers have received 8 hour CIT orientation training in addition to training they receive in the basic academy.
Nationally, chemical agents are the less lethal options most widely distributed to police officers, followed by the 12-gauge shotgun with beanbag rounds, and to less extent, the taser (a device emitting a disabling electrical charge).	The Seattle Police Department conforms to the general practice of other departments in the distribution of chemical agents, but is deploying tasers to more officers than are other agencies and at a level equal to the deployment of the shotgun armed with beanbag rounds.

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## Use of Force by Police Officers<sup>1</sup>

**The National Picture** – The conclusions of recent national studies and surveys about police use of force are, as follows:

Police use force infrequently. The most recent report by the National Institute of Justice on *Contacts Between Police and the Public*<sup>2</sup> indicates that while more than 44 million Americans had contact with police officers in 1999, fewer than 1% of these contacts involved the use of force. This confirmed the findings of previous studies in which it was concluded that police use of force is a relatively rare event. Self-reporting by more than 110 police agencies in 1995 as compiled by the International Association of Chiefs of Police, for example, put the use of force rate at about 0.4% of dispatched calls for service.<sup>3</sup> A pretest of the Bureau of Justice Statistics study of police/public contacts study found that the threat or actual use of force was present about 1% of the time.<sup>4</sup>

Police use of force typically occurs at the lower end of the force spectrum. In a study of adult custody arrests in six police agencies, Garner and Maxwell found that nearly 98% of arrests were accomplished without the use of a weapon.<sup>5</sup> When weapons were used, the most likely was a chemical agent used in 1.2% of arrests, followed by flashlights in 0.5% of arrests, and handguns, rifles or shotguns in 0.2%. The IACP study<sup>6</sup> found that officers used physical force (use of hands) in 87% of the use of force incidents. This was followed by use of chemical agents (i.e., mace, pepper spray, etc.) in 7% of the incidents, and firearms in 5% of the incidents. The 1999 Justice Department survey had similar findings, with citizens reporting that officers used or threatened physical force about 85% of the time, used or threatened with a gun about 20% of the time, and used or threatened chemical agents in about 9.8% of the incidents.<sup>7</sup>

When injuries occur as a result of the police use of force, they are likely to be minor. Consistent with the lower level of force used by police, citizens reported injuries in about 15% of the use of force incidents, with the most likely injuries being bruises or cuts.<sup>8</sup> Self-reports by police agencies

<sup>1</sup> This paper adopts the definition of "use of force" used by Langan, et. al. (see footnote 2 below), which includes contacts in which the police officer pushed, grabbed, kicked, or hit the citizen by striking with a hand or an object held in the officer's hand. Also included within this definition are police dog bites, spraying with pepper spray or a chemical, and pointing a firearm in the citizen's direction. Also included is the threat to carry out any of these types of force.

<sup>2</sup> See Patrick A. Langan, Lawrence A. Greenfield, Steven K. Smith, Matthew R. Durose, and David J. Levin, *Contacts Between Police and the Public, Findings from the 1999 National Survey*, (Washington, DC: US Department of Justice, NCJ 18457), February 2001.

<sup>3</sup> See Mark A. Henriquez, "IACP National Database Project on Police Use of Force," in *Use of Force by Police, Overview of National and Local Data*, (Washington, DC: US Department of Justice, NCJ 176330), October 1999.

<sup>4</sup> See Lawrence A. Greenfield, Patrick A. Langan, and Steven K. Smith, "Revising and Fielding the Police-Public Contact Survey," in *Use of Force by Police*, *op. cit.*

<sup>5</sup> See Joel H. Garner and Christopher D. Maxwell, "Measuring the Amount of Force Used By and Against the Police in Six Jurisdictions," in *Use of Force by Police*, *op. cit.*

<sup>6</sup> See Henriquez, *op. cit.* Finding is based on 1995-97 data.

<sup>7</sup> See Langan, et. al., *op. cit.*

<sup>8</sup> *Ibid.*

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put the rate of suspect injuries at 38% of use of force incidents, with just 1.5% of those incidents resulting in injuries described as "major".<sup>9</sup>

Use of force typically occurs when police are trying to make an arrest and/or conduct a search of a person or vehicle. In the IACP study, arrest-related situations constituted "the vast majority" of use of force incidents.<sup>10</sup> In the Justice Department survey, two thirds of the use of force incidents involved arrests, searches, or handcuffing suspects.<sup>11</sup> A study of use of force and suspect resistance in Miami-Dade County found that active resistance to arrest occurred 36% of the time, officer assaults about 25% of the time, and escape attempts about 21% of the time.<sup>12</sup> A majority of the respondents in the Justice Department pilot survey, who reportedly experienced police use of force, conceded that their behaviors may have caused the officers' response.<sup>13</sup>

**The Seattle Story** – Use of force reports and reviews of firearms discharges were totaled for the year 2000, to develop information for Seattle police officers that would be comparable to that reported nationally. These data are reported below.<sup>14</sup> As can be seen, Seattle officers use force less often than their counterparts elsewhere, but the types of force and circumstances giving rise to its use show great similarity to national trends and patterns.

**Seattle police officers use force very infrequently.** Use of force reports in 2000 totaled 617 and firearms discharges amounted to nine (two of which were discounted because they were accidental). At the same time, Seattle police officers had approximately 470,000 police/citizen encounters and effected more than 29,000 arrests.<sup>15</sup> This works out to a rate of one use of force for every 753 dispatched calls, traffic stops, or on-view events to which Seattle patrol officers responded in 2000, and one use of force for every 46 arrests. The vast majority of police-citizen interactions (99.87%) were resolved without use of force in 2000, with only 0.13% of patrol officers' direct responses to 911 dispatches, traffic stops, and on-view events and just over 2% of all arrests resulting in the use of force.

<sup>9</sup> See Henriquez, *op. cit.* Finding based on 1995-97 data.

<sup>10</sup> *Ibid.*

<sup>11</sup> See Langan, et. al., *op. cit.*

<sup>12</sup> See Geoffrey P. Alpen and Roger G. Dunham, "The Force Factor: Measuring and Assessing Police Use of Force and Suspect Resistance," in *Use of Force by Police*, *op. cit.*

<sup>13</sup> See Greenfield, et. al., *op. cit.*

<sup>14</sup> Seattle officers and their supervisors are required to complete and submit use of force reports following any use of force incidents in which they are involved. These generally include all uses of force short of firearms discharges, which are subject to a Firearms Review Board procedure. A total of 617 use of force reports and 7 firearms discharges were reviewed for 2000. These are compared with patrol dispatches and logged responses and with total arrest figures, even though some of the use of force incidents may not have involved patrol officers.

<sup>15</sup> The police/citizen encounters used here are 911 calls dispatched to patrol units, and traffic stops and on-view events logged by radio. Arrests are total arrests of adults and juveniles. This is a significant underrepresentation of the number of citizen contacts that Seattle officers had in 2000. For this reason, the Seattle data are not directly comparable to the data in the Bureau of Justice Statistics survey cited above. That survey counted more types of citizen contacts, such as reporting or being a witness to a crime. If similar data were available for Seattle, the use of force rate would be even lower.



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Most use of force incidents by Seattle Police officers in 2000 involved force at the low end of the spectrum. As elsewhere, the typical level of force used by Seattle officers was hands, reflected in about 74% of the use of force reports. At the other end of the spectrum, there were nine incidents in 2000 when Seattle police officers discharged firearms, two of which were accidental. The remaining seven discharges represented 1.1% of the use of force incidents.

The most frequent type of injury recorded in use of force incidents in Seattle was abrasions, bruises and scrapes. These are reflected in about a third of the use of force reports. Dental or facial injuries and cuts or lacerations are the next most common injuries reported. Often, suspect injuries were sustained prior to the arrival of police officers and in some instances, were self-inflicted. Several suspects, for example, kicked out the windows of patrol vehicles, sustaining cuts in the process.

Seattle police officers' use of force occurred most often when suspects fought with officers or attempted to flee from them. In about 80% of the reports, suspects either engaged in a fight with officers and/or attempted to flee from them. Compared with fighting or flight behavior, use of a weapon by suspects was reported far less frequently, in just over 3% of the reports.

Seattle police officers' use of force was most likely to occur when effecting an arrest in response to dispatched calls or on-view events. About a third of use of force reports resulted from dispatched calls and another third were in response to on-view events. Only 9% of the use of force reports in 2000 were associated with traffic stops. In terms of the frequency of these officer/citizen encounters, use of force reports were prepared in 0.08% of dispatched calls, in 0.16% of on-view events, and in 0.08% of traffic stops in 2000. Among arrests, assaults and drug violations appeared to generate the most use of force.

### Frequently Asked Questions About Police Use of Force –

The public often has questions when subjected to or observing the police use of force. Some of the more common questions are addressed below.

**How do officers know how much force to use?** Police are in a reactive mode when they use force. To ensure public safety and protect persons and property, officers in Seattle, as elsewhere, are trained to gain control of the situations they encounter as quickly, safely, and effectively as possible. This means using a level of force necessary<sup>16</sup> and reasonable under the circumstances to accomplish their lawful purpose. It is recommended that officers meet force with superior force. This is because studies have shown that officers are at great risk of injury when they use force, and that there is a greater chance of both suspect and officer injury when officers fail to meet

<sup>16</sup> According to RCW 9A.16.010(1) "Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended.



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suspect resistance with a greater amount of force.<sup>17</sup> However, since no two situations are likely to be the same, there are no "cookie cutter" guidelines for officers to follow. Instead they are expected to use their training, experience, and judgment in applying force.

In Seattle, police recruits are exposed to a training guideline known as the "Continuum of Force" (attached as Exhibit A). This continuum describes the types of force available to an officer to address escalating types of suspect resistance or assault. Seattle police trainees are given more than 120 hours of scenario-based and simulator training on use of force situations.

**Many use of force situations seem to involve multiple officers. Are the police "ganging up" on people they are trying to arrest?** Officers are trained to call for back up in use of force situations. This is done to prevent an incident from escalating to the point that a greater use of force may be required. In other situations, an officer may seek the guidance of a supervisor on the scene. Though suspects may view the arrival of additional officers as an aggressive action, experience has shown that if an arrest has to be made, it is wise to have additional officers available. Their presence may reduce the need for, and even prevent the use of force.

**What should a person do if they feel unnecessary or excessive force is being used on them?** The best course of action is to comply with the officer's directives and seek a timely end to the encounter, noting the time and place of the incident and the officers' identification. Then, at the earliest opportunity, call the police agency involved and ask to speak with a supervisor to discuss the matter. If unsatisfied with the response, one can file a formal complaint. In Seattle, any supervisor can assist citizens who are concerned about an officer's behavior. Formal complaints can be made at any precinct or directly with the Investigation Section of the Office of Professional Accountability. Exhibit B provides contact information for reaching police precincts and filing citizen complaints.

<sup>17</sup> See Alpert and Dunham, in *Use of Force by Police*, *op. cit.*



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## Police Use of Deadly Force – Fatal Police Shootings

**The National Picture** – As noted above, use of any type of force by police officers is a relatively rare event, particularly in light of the number of interactions that police officers have with the public. Rarer still are incidents that involve the use of deadly force. Rarest of all are police shootings in which there is a fatality.

A recent series of stories by The Washington Post profiled fatal shootings by police between 1990-2000 in the fifty largest law enforcement agencies in the United States.<sup>18</sup> The data for the profile were drawn from surveys of individual departments, state police agencies, FBI Uniform Crime Report data, and the U.S. Census Bureau. Medians for a series of measures were calculated for the whole group of agencies and the fifty agencies were also ranked against each other on the selected measures. Each of these measures is profiled below, together with the findings of the analysis. A comparison of the data for the thirty-two urban jurisdictions is reported below in the "Seattle story" section.

**Fatal shootings per 100,000 residents.** The *Post* computed an average number of shootings per year over the eleven-year study period for each agency. However, that statistic can be somewhat misleading, unless total population is taken into account. The New York Police Department, for example, had the highest average of fatal shootings per year (24.1), but when the number of people in the jurisdiction is taken into account, they rank 28<sup>th</sup> in rate of fatal shootings among the fifty agencies studied.

To adjust for population base, the number of fatal shootings per 100,000 residents was computed. The median for all fifty agencies was 0.36 fatal shootings per year per 100,000 residents. The Washington, D.C. police department recorded the highest rate of fatal shootings over the 1990-2000 time period, averaging 1.53 fatal shootings per year. *Seattle ranked 37<sup>th</sup> among the fifty agencies studied, with a rate of 0.22 fatal shootings per year per 100,000 population.* West Coast cities with which Seattle is often compared all had higher rates of fatal shootings. For example, Los Angeles ranked 12<sup>th</sup> with a rate of 0.53, Portland ranked 18<sup>th</sup> with a rate of 0.45, San Diego ranked 10<sup>th</sup> with a rate of 0.55, and San Francisco ranked 26<sup>th</sup> with a rate of 0.37.

**Fatal shootings per 1000 sworn officers.** In order to adjust for the varying size of police agencies, the *Post* computed a rate of fatal shootings per 1000 officers on a force. The median for all the fifty agencies was 1.45 fatal shootings per year per 1000 officers over the period 1990-2000.

<sup>18</sup> See the four part series by Craig Whitlock and David S. Fallis, Washington Post Staff Writers, *The Washington Post*, July 1 – July 4, 2001. The series focuses on deadly force incidents involving Prince George's County, MD, police officers. The data referred to here are presented in a table in which the fifty largest agencies are compared to Prince George's County. This appeared in the article on Sunday, July 1, 2001.



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It was on this measure that Prince George's County (MD), the focus of the *Post* series, stood out, ranking first with a rate of 3.37 fatal shootings per year per 1000 officers. San Diego ranked second, with a rate of 3.27 fatal shootings per 1000 officers, followed by Phoenix at 3.14 fatal shootings, San Bernardino, CA, at 2.75, and Riverside County, CA, rounding out the top five agencies at a rate of 2.73 fatal shootings per 1000 officers. Among West Coast cities, Portland ranked 8<sup>th</sup> with a rate of 2.41 fatal shootings per 1000 officers, Los Angeles ranked 12<sup>th</sup> with a rate of 2.19, San Francisco ranked 29<sup>th</sup> with a rate of 1.35, and *Seattle* ranked 36<sup>th</sup> with a rate of 0.95.

**Fatal shootings per 10,000 violent crimes.** The rationale for this measure is that violent crime incidents and suspects are potentially more likely to generate fatal shootings by police than are other types of crime or of police/public interactions. Therefore, in jurisdictions having a large number of violent crimes, police might be expected to encounter potentially dangerous suspects more often, giving rise to a greater number of fatal shootings. The *Post* adjusted for this by computing the rate of fatal shootings per 10,000 reported violent crimes. The median for all fifty agencies on this measure was 3.36 fatal shootings per year per 10,000 violent crimes.

When adjustments are made based on the number of violent crimes in a jurisdiction, the relative rankings of police agencies change. On this measure, San Bernardino County, CA ranks first among the agencies studied, with a rate of 10.01 fatal shootings per year per 10,000 violent crimes. (In other words, San Bernardino has a high rate of fatal shootings relative to the number of violent crimes reported there.) Boston, on the other hand, rates lowest on this measure with a rate of 0.82 fatal shootings per year per 10,000 reported violent crimes. Other high ranking jurisdictions on this measure are Denver, 2<sup>nd</sup> with a rate of 8.06 fatal shootings, Fairfax County, VA, 3<sup>rd</sup> with a rate of 6.95, Phoenix, 4<sup>th</sup> with a rate of 6.69, and Washington, D.C., 5<sup>th</sup> with a rate of 6.35 fatal shootings per 10,000 reported violent crimes.

Among West Coast cities, San Diego ranks 9<sup>th</sup> with a rate of 5.86, Los Angeles is 10<sup>th</sup> with a rate of 5.23, Portland is 35<sup>th</sup> with a rate of 2.88, San Francisco is 41<sup>st</sup> with a rate of 2.61, and *Seattle* ranks 43<sup>rd</sup> with a rate of 1.99 fatal shootings per 10,000 reported violent crimes.

**Fatal shootings per 10,000 arrests for all crimes.** As noted in the earlier section, use of force incidents are frequently associated with police attempts to effect arrests. To examine this relationship, the *Post* calculated the rate of fatal shootings by each agency relative to the number of arrests made. The median rate for all agencies was 0.60 fatal shootings per 10,000 arrests made.

Relative to the number of arrests made per year, Prince George's County recorded the highest rate of fatal shootings (2.71) among the agencies profiled in the *Post* study. Fairfax County, VA, and King County, WA recorded the lowest rate of fatal shootings per 10,000 arrests made. Other jurisdictions showing high rates of shootings relative to arrests were



Riverside County, CA, ranked 2<sup>nd</sup> with a rate of 1.98, Harris County, TX, 3<sup>rd</sup> with a rate of 1.83, Washington, D.C., 4<sup>th</sup> with a rate of 1.69, and Los Angeles County, 5<sup>th</sup> with a rate of 1.68.

Among West Coast agencies, Los Angeles ranked 8<sup>th</sup> with a rate of 1.15, San Diego, 13<sup>th</sup> with a rate of 1.01, Portland, 19<sup>th</sup> with a rate of 0.83, San Francisco, 27<sup>th</sup> 0.58, and Seattle, ranked 41<sup>st</sup> with a rate of 0.34 fatal shootings per 10,000 arrests made each year.

**Fatal shootings per 1000 arrests for violent crime.** If arrests generally are associated with use of force, it follows that arrests for violent crimes hold a greater potential to produce violent encounters and result in a greater number of fatal police shootings. For the fifty jurisdictions studied, the *Post* computed a rate of fatal shootings per 1000 arrests for violent crimes. The median for all agencies on this measure was 0.94 fatal shootings per year per 1000 violent crime arrests.

Adjusting for the number of arrests for violent crimes, Harris County, TX, had the highest rate of fatal shootings among the fifty agencies studied at 3.47. Boston once again recorded the lowest rate of fatal shootings among the jurisdictions at 0.20 per 1000 violent crime arrests. Boston police appear to experience fewer fatalities relative to the number of arrests they make for violent crimes, than do other large police agencies. Other jurisdictions that recorded high fatality rates relative to violent crime arrests were Houston, ranked 2<sup>nd</sup> with a rate of 2.76, Phoenix, 3<sup>rd</sup> with a rate of 2.47, Prince George's County, 4<sup>th</sup> with a rate of 2.21, and San Antonio, TX, 5<sup>th</sup> with a rate of 2.15. Among West Coast cities, Portland, ranked 8<sup>th</sup> with a rate of 2.03, San Diego, 18<sup>th</sup> with a rate of 1.22, Seattle, 20<sup>th</sup> with a rate of 1.15, Los Angeles, 30<sup>th</sup> with a rate of 0.84, and San Francisco, 42<sup>nd</sup> with a rate of 0.59.

**The Seattle Story** – As the foregoing review of national data indicate, Seattle Police Department ranks below most other large jurisdictions as well as other major West Coast cities when rates of fatal uses of deadly force are compared using a variety of measures.

Among the jurisdictions compared in the Washington Post study were a number of suburban police agencies. These were disaggregated from the data, leaving the experience of thirty-two urban law enforcement agencies to which Seattle could be compared. What was found is that Seattle has for the last decade recorded a lower rate of fatal shootings than many of its peer agencies. The table on the next page illustrates this comparison.



**Comparison of Seattle with the Medians for the Fifty Largest Law Enforcement Agencies and for the Thirty Two Largest Urban Police Departments, on Selected Measures concerning Fatal Police Shootings, 1990-2000 (Source: *The Washington Post*, July 2001)**

Selected Measure	Median for 50 largest agencies	Median for 32 largest urban agencies*	Measure for Seattle	SPD's ranking relative to 32 urban depts
Fatal shootings per 100,000 residents	0.36	0.44	0.22	28 <sup>th</sup> of 32
Fatal shootings per 1,000 sworn officers	1.45	2.00	0.95	27 <sup>th</sup> of 32
Fatal shootings per 10,000 violent crimes	3.36	3.33	1.99	28 <sup>th</sup> of 32
Fatal shootings per 10,000 arrests for all crimes	0.60	0.98	0.34	27 <sup>th</sup> of 32
Fatal shootings per 1,000 arrests for violent crimes	0.94	0.62	1.15	14 <sup>th</sup> of 32

\* Data derived from table provided in *Washington Post* series.

This is not to suggest that the fatal shootings that have occurred in Seattle are insignificant or unimportant. On the contrary, each resulted from a unique set of circumstances and in a context that must be analyzed and understood; and each has aroused considerable concerns both within the Department and in the community. For this reason, the Department has conducted debriefings and reviews after each shooting with the aim of determining how each might have been avoided and what can be learned from the incident. The Firearms Review Board is the mechanism used by the Department to review officer uses of firearms in general, and fatal shootings in particular. Included on the Firearms Review Board is a civilian observer, who attends its proceedings but does not vote or participate in its deliberations.<sup>19</sup>

**Exhibit C** and **Exhibit D** provide two different summaries of use of deadly force by Seattle Police Department officers. Exhibit C is a tabular presentation of all officer-involved shootings for the years 1999-2001 through July, showing the date, location, incident number and brief description of the shooting. As the table shows, Seattle police officers discharged a firearm 11 times in 1999, 9 times in 2000, and through July, 7 times in 2001. Two of the discharges this year and in 2000 were accidental ones while the officer was either off-duty or at the Range. In each of the three years, two fatal shootings are shown.

**Exhibit D** is a tabular summary of all fatal police shootings by Seattle Police Department officers from 1980 to the present. This table provides a

<sup>19</sup> The Firearms Review Board is discussed further at p.12 below.



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more detailed look at the circumstances and persons involved in fatal shootings. As this recap clearly illustrates, police shootings occur under widely varying conditions. They present unique situations with dynamics and circumstances that are unlikely to recur. Some characteristics of these shootings are, as follows:

- The table summarizes a total of 33 fatal police shootings over a period of 22 years. The most in one year was 6 in 1988. The fewest in one year was zero, recorded in 1986, 1987, 1991, 1994, 1997, and 1998.
- All of the persons shot by Seattle police officers were male.
- In all but two of the fatal shooting incidents, the person was armed with a weapon or what officers believed to be a weapon, as follows:

*Weapons Used by Persons Shot by Seattle Police*

Type of Weapon	No of Incidents	% of Incidents
Gun	22	66.66%
Knife	2	6.06%
Knife & Gun	2	6.06%
Mistaken Item	2	6.06%
Other items*	3	9.09%
No weapon	2	6.06%

\*Sword, wrench, car.

- Of the 24 incidents where persons were armed with guns, officers were fired upon 14 times. In 7 of those 14 incidents, officers were shot.
- The racial/ethnic description of persons fatally injured by Seattle police is the following:

*Racial Identity of Persons Fatally Injured by Seattle Police*

Race of Person	No of Fatalities	% of Fatalities
White	16	48.40%
African American	12	36.30%
Hispanic	2	6.00%
Asian/Pacific Islander	2	6.00%
Native American	1	3.00%

**Frequently Asked Questions about Police Use of Deadly Force** – Each police shooting raises questions about police use of deadly force in general, as well as the nature and circumstances involved in the incident itself. Some questions are of a recurring nature and are addressed below.

**When are police officers authorized to use deadly force?** In Washington as elsewhere, police officers are authorized to use a level of force (including deadly force) that is "reasonable" to ensure public safety and to prevent harm

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to themselves and others.<sup>20</sup> Instead of having a hard and fast standard to apply to every incident, "reasonable force" is typically determined by the facts and circumstances involved in a particular situation. When courts have been asked to review use of force by police officers, they have done so by considering what they call "the totality of the circumstances," using the perspective of what a "reasonable police officer" would have done in the same situation.

SPD policy (1.145) restricts Seattle police officers' use of force to the *amount of force necessary* to resolve a situation. However, the manual section goes on to state that this requirement establishes the basis on which use of force incidents will be evaluated and does not create a higher standard than that provided in state law.

**Why don't officers just shoot weapons out of people's hands or shoot to wound them?** Police officers are taught that their paramount duty is to ensure public safety by protecting themselves and others from harm. When confronted by persons who are armed and dangerous, the officers' goal is to stop these persons before they can harm others. In Seattle as in other law enforcement agencies, officers are trained that the most certain and effective way to stop armed and dangerous assailants is to aim for their "center of mass". Movies and television programs make it seem that shooting at a person's arm or leg is easily done. In real life, such a shot is both improbable and risky. Deadly force incidents evolve in seconds, often presenting officers with limited opportunities to intervene. In light of this, officers are trained to take the high percentage shot, which is center of mass.

**Why don't the police fire "warning shots" and give suspects the chance to throw down their weapons?** The national standard among police agencies is not to fire warning shots. The Seattle Police Department complies with that standard. The carefully scripted plots of movies and television programs frequently involve armed suspects who appear easily persuaded to relinquish their weapons and surrender to police officers. Unfortunately, many of the people that police officers confront are not nearly so compliant. Some may be incapable of making a rational decision to surrender, because of a mental state or chemically induced condition. Others may have so strong a motivation to flee or fight that they will not consider complying with officers' orders to stop. As noted above, officers may only have one chance to use their weapons. Making (likely to be ineffective) shots in the air that have the added potential of harming others may not be the best use of that one opportunity.

**Often when there has been a police shooting, I hear that the officer has been placed on "administrative duty." What does that mean?** Officers on "administrative duty" remain in a paid status, but are removed from their regular assignments and assigned other duties. Because police shootings are

<sup>20</sup> RCW 9A.16.040 provides for the use of deadly force by peace officers in the State of Washington. Section (1) identifies situations (e.g., effecting arrests, preventing escapes, or suppressing a riot) when officers may justifiably use deadly force. Section (2) specifies that in considering the use of deadly force, officers must have probable cause to believe that the person they are confronting has committed a crime inflicting "serious physical harm" or poses a "threat of serious physical harm" to the officer or others.



such rare and significant events, they have a dramatic effect on the officer(s) involved. Officers frequently experience emotional trauma and may be dealing as well with physical injuries associated with the incident. The attendant publicity and/or controversy surrounding such events practically guarantee that their impacts will be both life changing and career shaping for an officer. Administrative duty assignments give officers time to sort things out, understand, and accept the events that occurred. Placing officers on administrative duty also has the practical effect of making them available for internal and external review systems that are set in motion by such events.

In Seattle, administrative duty assignments may include taking crime reports by telephone, performing follow-up duties on found property reports, doing clerical work, or gathering statistics for commanders. There is no set time that an officer may be placed on administrative duty, rather the nature of the circumstances may dictate the course taken by the Department. For all firearms discharges, a Firearms Review Board is convened (see below). If there has been a death, there will also be an inquest proceeding. These processes require the availability of officers for interviews, etc., and the Department may continue an officer's administrative duty assignment until these review procedures are completed.

I've heard different opinions about the Firearms Review Board and the inquest process here in Seattle. How do these work and why don't people like them? Each of these procedures is distinct and will be addressed separately. The Firearms Review Board (FRB) is an internal SPD mechanism designed to review any discharge of a firearm (even accidental) by a Seattle police officer. Chaired by an Assistant Chief, an FRB is composed of a captain and a lieutenant from outside the unit or precinct to which the officer is assigned and the commander of or a representative from the Training Section. A citizen observer and a bargaining unit representative observe the activities of the FRB, but do not vote or participate in its deliberations. The FRB is convened within 14 days of an incident, unless special circumstances dictate otherwise. If an inquest is scheduled, Department policy has been to delay the FRB's final recommendations until that process is completed. The purpose of the FRB is to make a factual determination of whether an officer's actions conformed to Department policy and regulations, training guidelines, and applicable law. Based upon its findings the FRB may recommend to the Chief of Police further action and/or make referrals for further investigation.

The inquest is a process established under state law to review the facts and circumstances surrounding an officer-involved death. Inquests are administered at the county level. In King County, the County Executive calls for an inquest upon recommendation of the Prosecuting Attorney. A District Court judge presides over the inquest, which is an open, public proceeding. Parties participating in the inquest include the Prosecuting Attorney or designee, the family of the deceased who may be represented by an attorney, and the officer(s) involved in the death, who may also have an attorney(s) present. The inquest jurors are drawn from the Superior Court jury pool. The jury is charged with determining the identity of the decedent, when, where, and by what means the death occurred, and the circumstances attending the death.



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The jury does this by answering a series of yes/no questions provided by the Court. The Court transmits the jury's responses (i.e., their findings) to the County Executive.

Public dissatisfaction with the FRB and the inquest process usually stems from a misunderstanding of the purpose and function of these proceedings. Neither process is designed to determine guilt or innocence, to establish civil or criminal liability, or to say whether what happened was "right or wrong." Instead both procedures focus on a *factual documentation/review* of the circumstances involved. The FRB compares the actions taken by officers to Department policies, procedures and guidelines to determine whether their actions were in compliance. The inquest proceeding documents who died, how, when, and where the death occurred, and an officer's involvement in that death. Questions of *criminal or civil liability* need to be resolved in other proceedings.

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## Less Lethal Force Options

**The National Picture** - A decade ago only a small number of law enforcement agencies had well-developed less-lethal options programs. A major reference work produced by the Police Executive Research Forum in 1992<sup>21</sup>, for example, cited the statistics from and the activities of the New York Police Department, Kansas City, Los Angeles, and the Los Angeles Sheriff's Office as illustrative of less lethal weapons programs at the local level<sup>22</sup>. Since that time, police interest in less lethal weapons has continued to grow and the technologies involved in these options have improved.

When Seattle Police Department was exploring its less lethal options, a survey of twenty-three regional and national agencies was conducted. Agencies were asked about the various aspects of their less lethal options programs. Some of the survey findings are summarized below.

- *Crisis intervention training (CIT)* is designed to equip officers to deal effectively with mentally ill persons, suicides, and other persons in crisis. In most agencies (14 of the 23), such training is limited to a few hours in the basic training academy. Two of the departments provide all officers with 40 hours of such training. The rest provide this training only to selected officers who are designated as CIT officers or hostage negotiators.
- In the area of *chemical agents*, all the agencies surveyed make OC (i.e. pepper) spray available to officers. Use of the pepperball device is more limited, with seven agencies reportedly testing and evaluating its use by specially trained units.
- *Less lethal weapons* are deployed in patrol by 17 of the agencies surveyed, but usually only to designated officers (15 of the 17). In eight of the agencies, patrol supervisors carry less lethal weapons and issue them to officers for deployment under appropriate circumstances.
- The 12-gauge *shotgun with beanbag rounds* is the less lethal weapon deployed most often, with 12 agencies reporting its deployment to all patrol officers and another seven deploying it to specialized units. Twelve agencies reported use of 37mm batons and beanbag rounds, all within special response units. Eight agencies reported use of tasers, devices capable of delivering disabling electrical charges.

<sup>21</sup> See William A. Geller and Michael S. Scott, *Deadly Force - What We Know: A Practitioner's Reference on Police-Involved Shootings*, (Washington, D.C.: PERF, 1992).

<sup>22</sup> *Ibid.*, at pp. 358-398.



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Other sources of information on the use of the less lethal weapons include the National Tactical Officers Association (NTOA), a professional association of special response or special weapons units, and equipment manufacturers themselves. Taser International, the maker of the M26 taser, for example, reports over 500 law enforcement agencies now using their products.

**The Seattle Story** – Like most large law enforcement agencies, Seattle Police Department has embarked on a program to equip officers with less lethal alternatives to the use of deadly force. An internal study group, called the Force Options Research Group (FORG), was created to develop the Department's program. At the same time, a Community Workgroup on Less Lethal Options was also convened, to provide a citizen perspective on the use of such options. Both the FORG<sup>23</sup> and the Citizens Workgroup<sup>24</sup> recommendations were presented to the Mayor and Council in September 2000 and resulted in support for an SPD program to be implemented in 2001 and 2002. Major components of the SPD Less Lethal Options Program include the following:

**Expanded Crisis Intervention Training in Patrol.** The Department committed to expanding the number of patrol officers being trained and certified as CIT officers. Through a 40-hour training class, CIT officers learn advanced communication and crisis intervention skills. They are then called to scenes where people are in mental or emotional crisis and attempt to defuse the situation without resort to use of force. The goal is to have a cadre of 200 officers with CIT training in Patrol at any time. The Department has also embarked on a briefer CIT orientation course for all patrol personnel, designed to give them basic communications tools for use with persons in crisis, and annual refresher training for all current CIT officers. To date, the following has been accomplished:

- *An additional 75 officers in Patrol have received CIT training, with another class of 23 being planned in October 2001. This will bring the number of CIT officers in Patrol to 185.*
- *More than 200 Patrol officers have received the 8-hour CIT orientation training.*
- *Two in-service refresher and skill building courses have been held for current CIT officers.*

**Patrol deployment of the M26 Taser.** The M26 Taser is a new device. It projects two prongs via copper wires, which deliver 26 watts of electricity at over 50,000 volts. The resultant charge overrides sensory and large motor functions,

<sup>23</sup> See the SPD Force Options Research Group (FORG), *A Less Lethal Options Program for Seattle Police Department, A Report with Recommendations*, September 2000. The report is accessible via the Seattle Police Department website at [www.cityofseattle.net/police](http://www.cityofseattle.net/police) under "Overview of SPD" or at the City of Seattle website at <http://www.cityofseattle.net/police/images/forgr.htm>

<sup>24</sup> See the citizens' report, *Less Lethal Weapons Options – Community Workgroup Recommendations*, September 20, 2000. This report is accessible via the City of Seattle website at <http://www.cityofseattle.net/police/images/LessLethal92000.htm>



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allowing officers to gain rapid compliance from subjects without resulting in injury or lasting effects on subjects. The effective range is distances up to 21 feet. The Department received funding to deploy 130 tasers in Patrol Operations with the goal of having at least one taser officer per patrol sector squad, per watch, on a 24/7 basis. To date, about half of the tasers have been deployed, with the rest to be deployed before the end of 2001.

The Department has been carefully monitoring taser use since the first devices were deployed in December 2000. Feedback from officers in the field has led to changes in the training classes and orientation on the taser has been provided to other officers so they know what to expect when a taser officer is called to a scene. A preliminary review of 37 taser uses through early May 2001 yielded the following information:

- *Types of Incidents.* While tasers were used in a wide variety of incidents, the largest categories were assaults, mental illness cases, and drug sales. These are typically the types of incidents where police use of force generally occurs.
- *Characteristics of Subjects.* In only two incidents were the subjects female, all other taser subjects were male. Many of the subjects were in highly intoxicated or disturbed states and totally non-compliant with officers and/or paramedics who were trying to help them or resolve the situation. The racial background of the male subjects was 55% white, 34% African American, and 10% Asian/Pacific Islander.
- *Injuries sustained.* As a precaution, Department protocols call for emergency medical personnel to be called to the scene of every taser deployment. In only seven cases were injuries to subjects reported and these consisted primarily of superficial marks or welts. Generally, subjects were cleared for booking either at the scene or at the hospital where they had been treated. The only subjects admitted to the hospital were those involuntarily committed for mental health evaluation. Officers were reported injured in two cases.

**Patrol deployment of less lethal shotguns with beanbag rounds.** A second less lethal weapon being deployed by Seattle Police Department is a less lethal shotgun with beanbag rounds. These rounds are designed to stop assailants from distances of 20-50 feet and have less potential for fatal injury than regular munitions. The Department has been funded to deploy 130 less lethal shotguns in Patrol Operations. They will be deployed before the end of 2001. Two thirds will be assigned to individual officers. The remaining third will be placed in sergeants' and watch commanders' vehicles, for use by officers with the appropriate training and certification. The goal is to have one qualified less lethal shotgun officer per patrol sector squad and to have patrol supervisors' vehicles equipped with less lethal shotgun kits.

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## Frequently Asked Questions About Less Lethal Force -

Though less lethal options are relatively new and rapidly evolving, there are already many public misconceptions about them. Some of the most common questions are addressed below.

**Why are the weapons called "less lethal?" Are they lethal or not?** There is no such thing as a "non-lethal" weapon. Even a child's toy can prove lethal under certain circumstances. So called "less lethal" weapons are given this designation because they are *less likely to result in death or serious injury* than are deadly weapons. However, there will always be the possibility for injury or lethal outcomes, and this must be recognized.

**If officers have less lethal weapons, are they required to use them first before they resort to deadly force?** The paramount duty of police officers to protect themselves and the public does not change because of the deployment of less lethal options. These options do not constitute "first steps" in some progression of responses, nor are officers required to employ or exhaust all less lethal options before resorting to deadly force. Instead officers at a scene will continue to exercise their best judgment in using reasonable force, and will not be expected to deploy less lethal options when such deployment is neither appropriate nor likely to be effective. Furthermore, it is important to recognize that the capacity to use less lethal options safely is dependent upon the ready availability of lethal force as protection and back up. Officers with tasers or with crisis intervention skills, for example, can only use them safely when other officers are in a position to support and protect them.

**If officers have less lethal weapons, why do I hear about people still getting shot?** The Department's less lethal options program is resulting in a *limited deployment* of officers who have received specialized training to use less lethal weapons and crisis intervention skills. When completed, the initial deployment will result in about 50% of officers in Patrol Operations being trained and equipped with some form of less lethal option. While the goal is to provide coverage with these options throughout the city on a 24/7 basis, there is no guarantee that an officer, trained and equipped with a less lethal option, will always be available. In addition, situational dynamics - in particular the timing and volatility of an incident - will dictate the response of officers. A high risk, rapidly evolving situation will not lend itself to the application of a broad range of response options, even if some of these options happen to be available.

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Exhibit A – Continuum of Force Training Guideline used by the Seattle Police Department.

Exhibit B – Seattle Police Department Contact Information for discussing officer conduct with supervisors or for filing citizen complaints.

Exhibit C – SPD Officer-Involved Shootings 1999 – July 2001.

Exhibit D – Recap of Fatality Shootings by SPD Officers 1980 – July 2001.

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