**Patrol Procedures Basic**

**Key Concepts**

**Class 877**

**Disclaimer:** *This Patrol Procedures Basis Key Concepts Guide is provided as a learning resource only for recruits during their BLEA session.  While every effort is made to ensure it is current and accurate, it should not be relied upon as a legal reference or resource outside of BLEA by law enforcement in performance of duties.  Instead, law enforcement should rely upon advice from counsel (legal advisories/bulletins/opinions), the published RCWs, current regulations and case law, and the policies of respective agencies or departments.*

Contents

[People 3](#_Toc146807291)

[Field Interview 3](#_Toc146807292)

[Handcuff, Frisk and Search 3](#_Toc146807293)

[CLSS 3](#_Toc146807294)

[Article 1, Section 7 (Constitution of the State of Washington) 4](#_Toc146807295)

[Probable Cause: 5](#_Toc146807296)

[Reasonable Suspicion (Terry Stop) 6](#_Toc146807297)

[**RCW 9A.76.175** 8](#_Toc146807298)

[**Making a false or misleading statement to a public servant.** 8](#_Toc146807299)

[Social Contacts: 9](#_Toc146807300)

[Searches of people 10](#_Toc146807301)

[Miranda 11](#_Toc146807302)

[Juvenile access to an attorney 13](#_Toc146807303)

[Open Carry and Concealed Weapons 14](#_Toc146807304)

[Crisis: 15](#_Toc146807305)

[ITA Prongs 15](#_Toc146807306)

[Use of Force 16](#_Toc146807307)

[AG Model Policy 17](#_Toc146807308)

[Vehicles 21](#_Toc146807309)

[Traffic 21](#_Toc146807310)

[Pretext: 24](#_Toc146807311)

[Control of driver 25](#_Toc146807312)

[Control of passengers 25](#_Toc146807313)

[ID of passengers 26](#_Toc146807314)

[Search of vehicle 26](#_Toc146807315)

[Consent to Search Vehicles 27](#_Toc146807316)

[Legal Authority: Vehicles 28](#_Toc146807317)

[Threat Management: Vehicles 32](#_Toc146807318)

[Position and Movement: Vehicles 34](#_Toc146807319)

[Communication: Vehicles 38](#_Toc146807320)

[Equipment Management: Vehicles 39](#_Toc146807321)

[High-Risk Vehicle Stops 41](#_Toc146807322)

[Buildings 46](#_Toc146807323)

[Building Search 46](#_Toc146807324)

[To Enter, you need: 46](#_Toc146807325)

[Search Warrants 47](#_Toc146807326)

[Knock and Announce 47](#_Toc146807327)

[Consent 47](#_Toc146807328)

[Ferrier 48](#_Toc146807329)

[Multiple People: Consent 48](#_Toc146807330)

[Thresholds 48](#_Toc146807331)

[Curtilage: 48](#_Toc146807332)

[Ruse: 48](#_Toc146807333)

[Plain View: 49](#_Toc146807334)

[Open View: 49](#_Toc146807335)

[Checking area / rooms / residence 49](#_Toc146807336)

[Warrants: 50](#_Toc146807337)

[Exigency / Emergency / Community Caretaking 51](#_Toc146807338)

[Domestic violence Investigations 53](#_Toc146807339)

[Preflex First 56](#_Toc146807340)

[Police Phonetic Alphabet 57](#_Toc146807341)

[Interview Format 58](#_Toc146807342)

[General Report Outline 59](#_Toc146807343)

[Use of Force Report Outline 62](#_Toc146807344)

[Patrol Procedures Basic Concepts 69](#_Toc146807345)

[Case Law and Resources 70](#_Toc146807346)

[Teaching points: Investigations 71](#_Toc146807347)

[Teaching points: Crisis 72](#_Toc146807348)

[Teaching Points: DV 73](#_Toc146807349)

# People

# Teaching points: Investigations

* preflexFIRST
  + Breathe, Scan, Threat, Position, Cover, Connect, Escape
* 5 Principles
  + Legal Authority
  + Threat Management
  + Position and Movement
  + Communication
  + Equipment Management
* Legal Authority
  + Social, RS, PC, Comm Care/Emergency
  + Consent, Warrant, Exigency, Comm Care/ Emergency
* Contact / Cover
* De-escalation
  + Time, Distance, Shielding
* Introduction and Identification of self
  + Set tone: Professional and in charge
* Scene control (Safety)
  + People
  + Hands
  + Set Limits
  + Frisk people, if frisk factors
  + Protective sweep of immediate area and adjoining
* Communication (Story)
  + With partners
    - Roles and responsibilities
  + With people
    - **L**isten, **E**xplain, **E**quity, **D**ignity
    - Ask names
    - Ask questions
    - Build rapport
* Investigate and Identify (Start writing)
  + Obtain and check identifying information
  + Notebook: ID info and details
  + Verify warrants / Confirm court orders
  + Evidence
* Notify Suspect of arrest, if making arrest
* CREST model
  + Control, Restrain, Evaluate, Search, Transport
* Miranda
  + Custodial Interrogation
  + Juveniles must consult with attorney
* Evidence
* Statements
* Documentation

## Article 1, Section 7 (Constitution of the State of Washington)

No person shall be disturbed in his private affairs, or his home invaded, without authority of law.

Authority of law is from RCW or warrant

At least 7 exceptions to warrant requirement:

* Consent
* Exigency
* Search incident to arrest
* Inventory search
* Plain View
* Terry Stops
* School Searches
* Arrest without a warrant
  + Probable Cause for a Felony
  + Misdemeanors or Gross Misdemeanors must occur in presence, but…
    - there are Exceptions to the Misdemeanor presence rule
    - [RCW 10.31.100](https://app.leg.wa.gov/RCW/default.aspx?cite=10.31.100)

## Probable Cause:

* Sufficient facts to lead a **reasonable person** to conclude that there is a **probability** that the defendant is involved in criminal activity.

[State v. Gentry, 125 Wn.2d 570, 607, 888 P.2d 1105, cert. denied, 516 U.S. 843 (1995)](https://scholar.google.com/scholar_case?case=10486713088190157488&q=state+v+gentry&hl=en&as_sdt=6,48).

* There must be “reasonable grounds for suspicion supported by circumstances sufficiently strong to warrant **a man of ordinary caution to believe**” the suspect is involved in criminal activity. Probable cause is a quantum of evidence **less than would justify a conviction, but more than bare suspicion.** [Brinegar v. United States, 338 U.S. 160, 175, 93 L. Ed. 1879, 69 S. Ct. 1302 (1949); State v. Cord, 103 Wn.2d 361, 365, 693 P.2d 81 (1985); State v. Conner, 58 Wn. App. 90, 97, 791 P.2d 261 (1990).](https://scholar.google.com/scholar_case?case=14598960307565581868&q=brinegar+v+united+states&hl=en&as_sdt=6,48)
* Probable cause to arrest exists when officers have knowledge or **reasonably trustworthy information** sufficient to lead a **person of reasonable caution** to believe that an offense has been or is being committed by the person being arrested. [*Beck v. Ohio,* 379 U.S. 89, 91, 85 S.Ct. 223, 13 L.Ed.2d 142 (1964)](https://scholar.google.com/scholar_case?case=3275459016877979675&q=garcia+v+county+of+merced&hl=en&as_sdt=6,48). For information to amount to probable cause, it does not have to be conclusive of guilt, and it **does not have to exclude the possibility of innocence**, a distinction which the district court overlooked. [*United States v. Lopez,* 482 F.3d 1067, 1072 (9th Cir.2007)](https://scholar.google.com/scholar_case?case=10484280563094397755&q=garcia+v+county+of+merced&hl=en&as_sdt=6,48). As we said in *Lopez,* police are **not required "to believe to an absolute certainty, or by clear and convincing evidence, or even by a preponderance of the available evidence"** that a suspect has committed a crime. *Id.* at 1078. **All that is required is a "fair probability," given the totality of the evidence,** that such is the case. *Id.*

[Garcia v. County of Merced, 639 F.3d 1206, 1209 (9th Cir. 2011) (citations omitted).](https://scholar.google.com/scholar_case?case=15199403798017958349&q=garcia+v+county+of+merced&hl=en&as_sdt=6,48)

* Preponderance of evidence:
* Generally understood to mean “more likely than not”
* More “likely than not” would be 51 percent (or more) likely
* 51 percent IS NOT REQUIRED for Probable Cause
* PC is somewhere below this standard
* If PC is lower than 51 percent, Reasonable Suspicion is even lower

## Reasonable Suspicion (Terry Stop)

[Terry v. Ohio, 392 US 1 - Supreme Court 1968](https://scholar.google.com/scholar_case?case=17773604035873288886&q=terry+v+ohio&hl=en&as_sdt=6,48)

"specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." [Terry, 392 U.S. at 21](https://scholar.google.com/scholar_case?case=17773604035873288886&q=State+v.+Adams,+144+Wn.&hl=en&as_sdt=4,48).

* Temporary Detention
  + Reasonable Amount of time
* Can restrict movements
* Can demand to see person’s hands
* Can frisk
  + If articulable frisk factors
  + Reason to believe person is armed and presently dangerous
* Can demand ID
  + Person does not need to provide
  + Person cannot provide false name or other person’s ID
* Can investigate and ask questions
  + Person does not need to cooperate or answer any questions

Terry stops in Washington are limited to crimes, and traffic infractions.

Terry stops may not be made to investigate a non-traffic infraction.

[State v. Duncan, 43 P. 3d 513 - Wash: Supreme Court 2002](https://scholar.google.com/scholar_case?case=13655417988125200154&q=state+v+duncan&hl=en&as_sdt=4,48)

A Terry stop may not be made to investigate a parking violation. See State v. Day, 161 Wn.2d 889, 168 P.3d 1265 (2007).

**Factors for determining reasonableness of Terry Stop**

* Purpose of the stop
* Amount of physical intrusion upon the suspect’s liberty
* Length of time suspect is detained

[State v. Williams, 689 P. 2d 1065 - Wash: Supreme Court 1984](https://scholar.google.com/scholar_case?case=330364754827657030&q=state+v+williams&hl=en&as_sdt=4,48)

Terry stops in Washington are limited to crimes, and traffic infractions. A Terry stop may not be made to investigate a non-traffic infraction.

[See State v. Duncan, 146 Wn.2d 166, 43 P.3d 513 (2002).](https://scholar.google.com/scholar_case?case=13655417988125200154&q=state+v+duncan&hl=en&as_sdt=4,48)

A Terry stop may not be made to investigate a parking violation. [See State v. Day, 161 Wn.2d 889, 168 P.3d 1265 (2007).](https://scholar.google.com/scholar_case?case=962112080009605373&q=state+v+day&hl=en&as_sdt=4,48)

**Can information from a caller establish reasonable suspicion?**

[State v. Howerton, 348 P. 3d 781 - Wash: Court of Appeals, 1st Div. 2015](https://scholar.google.com/scholar_case?case=202642637329352723&hl=en&as_sdt=6,48)

A reasonable suspicion can arise from information that is less reliable than that required to establish probable cause.

[*Alabama v. White,* 496 U.S. 325, 330, 110 S.Ct. 2412, 110 L.Ed.2d 301 (1990)](https://scholar.google.com/scholar_case?case=7068891057291415639&hl=en&as_sdt=6,48).

We review the reasonableness of the police action in light of the particular circumstances of each case. [*State v. Lesnick,* 84 Wash.2d 940, 944, 530 P.2d 243 (1975)](https://scholar.google.com/scholar_case?case=15084481233833811368&hl=en&as_sdt=6,48).

An informant's tip can provide police with reasonable suspicion to justify an investigatory *Terry* stop if the tip possesses sufficient "`indicia of reliability.'" [*State v. Sieler,* 95 Wash.2d 43, 47, 621 P.2d 1272 (1980)](https://scholar.google.com/scholar_case?case=3513290941651996389&hl=en&as_sdt=6,48) (quoting [*Adams v. Williams,* 407 U.S. 143, 147, 92 S.Ct. 1921, 32 L.Ed.2d 612 (1972)](https://scholar.google.com/scholar_case?case=11467920173379906407&hl=en&as_sdt=6,48)).

Courts employ the totality of the circumstances test to determine whether an informant's tip possessed sufficient indicia of reliability to support reasonable suspicion.

[*State v. Marcum,* 149 Wash.App. 894, 903,](https://scholar.google.com/scholar_case?case=9728948622187066366&hl=en&as_sdt=6,48) [205 P.3d 969 (2009)](https://scholar.google.com/scholar_case?case=9728948622187066366&hl=en&as_sdt=6,48): *see*[*Illinois v. Gates,* 462 U.S. 213, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983)](https://scholar.google.com/scholar_case?case=12877848434623819956&hl=en&as_sdt=6,48).

When deciding whether this indicia of reliability exists, the courts will generally consider several factors, primarily

"(1) whether the informant is reliable,

(2) whether the information was obtained in a reliable fashion, and

(3) whether the officers can corroborate any details of the informant's tip."

[*Lee,* 147 Wash.App. at 918, 199 P.3d 445](https://scholar.google.com/scholar_case?case=14132320892045929581&hl=en&as_sdt=6,48).

"The existing standard does not require all three factors to establish indicia of reliability." [*State v. Saggers,* 182 Wash.App. 832, 840 n. 18, 332 P.3d 1034 (2014)](https://scholar.google.com/scholar_case?case=5536296862455613839&hl=en&as_sdt=6,48).

"Reasonable suspicion, like probable cause, is dependent upon both the content of information possessed by police and its degree of reliability. Both factors-**quantity and quality** — are considered in the `totality of the circumstances — the whole picture,' [*United States v. Cortez,* 449 U.S. 411, 417[, 66 L.Ed.2d 621, 101 S.Ct. 690] (1981),](https://scholar.google.com/scholar_case?case=16399357609155030491&hl=en&as_sdt=6,48) that must be taken into account when evaluating whether there is reasonable suspicion."

[*Lee,* 147 Wash.App. at 917, 199 P.3d 445](https://scholar.google.com/scholar_case?case=14132320892045929581&hl=en&as_sdt=6,48) (alteration in original) (quoting [*State v. Randall,* 73 Wash.App. 225, 229, 868 P.2d 207 (1994)](https://scholar.google.com/scholar_case?case=18438159054999836176&hl=en&as_sdt=6,48)).

Known citizen informants are presumptively reliable. "Citizen informants are deemed presumptively reliable." [*State v. Gaddy,* 152 Wash.2d 64, 73, 93 P.3d 872 (2004)](https://scholar.google.com/scholar_case?case=6383333321628704084&hl=en&as_sdt=6,48);

**Based on quality and quantity of information**

* 1 significant factor may be enough, without other factors
* Several less significant factors, taken together, may be enough

Reasonable Suspicion from on caller information requires less than the Aguillar-Spinelli test

**Identification**

* Subjects of a Terry Stop are not required to provide identification
* Failure to provide identification is not a crime (not Obstruction, not Hindering)
* There is no obligation for a person to provide identifying information

Required to provide identification to purchase alcohol or tobacco

Required to provide CPL if carrying a concealed pistol

Required to provide identification if operating a motor vehicle

**[State v. Steen, 265 P. 3d 901 - Wash: Court of Appeals, 2nd Div. 2011](https://scholar.google.com/scholar_case?case=18023821295960683592&q=state+v+steen&hl=en&as_sdt=4,48)**

[**State v. White, 640 P. 2d 1061 - Wash: Supreme Court 1982**](https://scholar.google.com/scholar_case?case=9957780400803457165&q=state+v+steen&hl=en&as_sdt=4,48)

**However,** RCW 9A.76.175 may apply if a subject lies about their name

**RCW**[**9A.76.175**](http://app.leg.wa.gov/RCW/default.aspx?cite=9A.76.175)

**Making a false or misleading statement to a public servant.**

A person who knowingly makes a false or misleading material statement to a public servant is guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.

## 

## Social Contacts:

[State v. Harrington, 222 P. 3d 92 - Wash: Supreme Court 2009](https://scholar.google.com/scholar_case?case=16761197277844714684&q=state+v+harrington&hl=en&as_sdt=6,48)

* Person is free to leave
  + From a reasonable person’s perspective
* Person is free to ignore officer
* Person does not need to answer any questions
* Person does not need to provide identification
* Can ASK for ID
* Can ASK questions
* Can ASK for person to keep hands visible
  + If person refuses to cooperate: disengage and walk away

**Factors that may convert Social Contact to a Seizure**

* Tone of voice or language implying compliance is required
* Insisting on Responses
* Coercive language (Telling vs. Asking)
* Retaining control of identification
  + Can temporarily hold to record information
  + Do not remove from person’s presence
  + Do not retain
* Placing possessions out of a person’s reach
* Requesting permission to frisk or search
* Requesting person turn out their pockets
* Use of emergency lighting (red/blue vs. amber hazard, overall situation)
* Number of officers
* Physical contact with person’
* Limiting or blocking person’s movement or routes
* Not required to inform person they are free to leave
* May be appropriate in order to clarify the level of seizure
* If the person asks, tell them whether or not they are free to leave

## Searches of people

**Consent**

* Knowing
* Intelligent
* Voluntary
* Ferrier is not required for searches of people or belongings

[State v. Ferrier, 960 P. 2d 927 - Wash: Supreme Court 1998](https://scholar.google.com/scholar_case?case=3517335598829285484&hl=en&as_sdt=6,48)

**Incident to Arrest**

* Requires an actual custodial arrest
* Allows search of clothing and items in person’s immediate possession

**Frisks (limited searches) of people**

“…the issue is further refined to determine how much justification officers must have in fearing for their personal safety when confronting unknown persons in an emergent investigative stop. On this question, courts are reluctant to substitute their judgment for that of police officers in the field. "A founded suspicion is all that is necessary, *some* *basis from which the court can determine that the detention was not arbitrary or harassing.*"”

[State v. Belieu, 773 P. 2d 46 - Wash: Supreme Court 1989](https://scholar.google.com/scholar_case?case=5866666602766695839&hl=en&as_sdt=6,48)

* ONLY for weapons
* ONLY outer clothing
* CAN remove items if believed to be weapon
* CANNOT remove articles of clothing (hats, shoes, belts)
* CANNOT open wallets to retrieve ID
* CANNOT open containers, unless reasonable belief could contain a weapon
* CANNOT manipulate soft items to detect narcotics
* Can frisk someone before transporting them in your car
  + No specific frisk factors needed
* Can frisk on a terry stop with **frisk factors**
  + Suspect refuses to keep hands in plain view
  + Clothing could conceal a weapon
  + Crime involving a weapon
  + Past experience with suspect
  + Discovery of one weapon
  + Hours of darkness
* **NOT** stand-alone frisk factors
  + Close quarters
  + Presence in stolen vehicle
  + Presence in high crime area
  + Intoxication
  + Nervousness

**Considerations for a Valid frisk:**

(1) the initial stop is legitimate

(2) there is a reasonable safety concern justifying a protective frisk for weapons

(3) the scope of the frisk is limited to protective purposes.

\*\*\*Also from this case**: A detention for a** **civil infraction must be based upon Probable Cause.**  Reasonable Suspicion is not sufficient for civil infractions.

[State v. Duncan, 146 Wn.2d 166, 172, 43 P.3d 513 (2002).](https://scholar.google.com/scholar_case?case=13655417988125200154&hl=en&as_sdt=6,48)

[State v. Horton, 146 P. 3d 1227 - Wash: Court of Appeals, 3rd Div. 2006](https://scholar.google.com/scholar_case?case=16856125855862616404&q=state+v.+horton&hl=en&as_sdt=4,48)

* A reasonable concern for officer safety is a sufficient independent ground to pat down a passenger… (citing [*State v. Kennedy,* 107 Wash.2d 1, 11, 726 P.2d 445 (1986)](https://scholar.google.com/scholar_case?case=18229732045014436440&q=state+v.+horton&hl=en&as_sdt=4,48)
* The officer may withdraw an object if it feels like it might be a weapon. *Id.* But if the officer withdraws a cigarette pack under this rationale, the justification for the intrusion ends once he determines it is not a weapon.
* Only objects that feel like they could be used as weapons in a superficial pat down of the outer clothing may be removed and examined under *Terry.*
* [State v. Williams, 689 P. 2d 1065 - Wash: Supreme Court 1984](https://scholar.google.com/scholar_case?case=330364754827657030&q=state+v+williams&hl=en&as_sdt=4,48)
  + Validity of detention and length of detention
* [State v. Flores, 379 P. 3d 104 - Wash: Supreme Court 2016](https://scholar.google.com/scholar_case?case=15289519996115284716&hl=en&as_sdt=6,48)
  + Detention of companion without RS

## Miranda

<https://waprosecutors.org/wp-content/uploads/2019/04/May-2015-Final-Search-and-Seizure.pdf>

Waiver of constitutional rights (including those protected by miranda) must be:

* **Knowing**
* **Intelligent**
* **Voluntary**

Triggered by Custodial interrogation:

**Custody:**

The suspect has been placed under arrest, or the suspect's freedom of action or movement has been curtailed to a degree associated with formal arrest.

**Berkemer v. McCarty, 468 U. S. 420, 104 S. Ct. 3138, 82 L. Ed.2d 317, 335 (1984); State v. Harris, 106 Wn.2d 784, 789-90, 725 P.2d 975 (1986).**

A suspect is "in custody" when arrested, taken into full custody, or otherwise deprived of his or her freedom of action in a "significant way."

**State v. McWatters, 63 Wn. App. 911, 822 P.2d 787, review denied, 119 Wn.2d 1012 (1992).**

"In custody" often means the suspect has been cuffed and is in a secure environment, even if not actually arrested.

"In custody" and "seizure" or "seized" (not free to leave) are not the same. "Seizure" means "not free to leave." A Terry detention is a seizure, but not an arrest. A person who is only subjected to a Terry routine investigative stop need not be given Miranda warnings prior to questioning.

**State v. Huynh, 49 Wn. App. 192, 201, 742 P.2d 160 (1987), review denied, 109 Wn.2d 1024 (1988).**

Even the fact that a suspect is not "free to leave" during the course of a Terry or investigative stop does not make the encounter comparable to a formal arrest for Miranda purposes. **State v. Walton, 67 Wn. App. 127, 130, 834 P.2d 624 (1992).**

This is because an investigative encounter, unlike a formal arrest, is not inherently coercive since the detention is presumptively temporary and brief, relatively less "police dominated," and does not lend itself to deceptive interrogation tactics.

**State v. Cunningham, 116 Wn. App. 219, 228, 65 P.3d 325 (2003); Walton, 67 Wn. App. At 130.**

A temporary detention does not ripen into a custodial interrogation simply because officers have probable cause to arrest the suspect.

**State v. Short, 113 Wn.2d 35, 40-41, 775 P.2d 458 (1989); State v. Ustimenko, 137 Wn. App. 109, 151 P.3d 256 (2007).**

Factors to be considered in deciding whether someone is “in custody”:

• the place of the interrogation

• whether the interrogation is conducted during normal business hours or is conducted at an odd hour of the night

• the presence of friends, relatives or neutral persons at the interview

• the presence or absence of fingerprinting, photographing, and other booking procedures

• telling a suspect that s/he is under arrest

• the length and mode of the interrogation

• the existence or probable cause to make the arrest

**Ferguson, 12 Wash. Prac., Criminal Practice and Procedure § 3309, at 858- 59 (3d ed. 2004).**

**Interrogation:**

"Interrogation" involves express questioning, as well as all words or actions on the part of the police, other than those attendant to arrest and custody, that are likely to elicit an incriminating response.

**Rhode Island v. Innis, 446 U.S. 291, 301, 100 S. Ct. 1682, 64 L. Ed. 2d 297 (1980); State v. Johnson, 48 Wn. App. 681, 739 P.2d 1209 (1987).**

## Juvenile access to an attorney

**RCW**[**13.40.740**](http://app.leg.wa.gov/RCW/default.aspx?cite=13.40.740)

**Juvenile access to an attorney.**

(1) Except as provided in subsection (4) of this section, law enforcement shall provide a juvenile with access to an attorney for consultation, which may be provided in person, by telephone, or by video conference, before the juvenile waives any constitutional rights if a law enforcement officer:

(a) Questions a juvenile during a custodial interrogation;

(b) Detains a juvenile based on probable cause of involvement in criminal activity; or

(c) Requests that the juvenile provide consent to an evidentiary search of the juvenile or the juvenile's property, dwellings, or vehicles under the juvenile's control.

(2) The consultation required by subsection (1) of this section may not be waived.

(3) Statements made by a juvenile after the juvenile is contacted by a law enforcement officer in a manner described under subsection (1) of this section are not admissible in a juvenile offender or adult criminal court proceeding, unless:

(a) The juvenile has been provided with access to an attorney for consultation; and the juvenile provides an express waiver knowingly, intelligently, and voluntarily made by the juvenile after the juvenile has been fully informed of the rights being waived as required under RCW [**13.40.140**](http://app.leg.wa.gov/RCW/default.aspx?cite=13.40.140);

(b) The statement is for impeachment purposes; or

(c) The statement was made spontaneously.

(4) A law enforcement officer may question a juvenile without following the requirement in subsection (1) of this section if:

(a) The law enforcement officer believes the juvenile is a victim of trafficking as defined in RCW [**9A.40.100**](http://app.leg.wa.gov/RCW/default.aspx?cite=9A.40.100); however, any information obtained from the juvenile by law enforcement pursuant to this subsection cannot be used in any prosecution of that juvenile; or

(b)(i) The law enforcement officer believes that the information sought is necessary to protect an individual's life from an imminent threat;

(ii) A delay to allow legal consultation would impede the protection of an individual's life from an imminent threat; and

(iii) Questioning by the law enforcement officer is limited to matters reasonably expected to obtain information necessary to protect an individual's life from an imminent threat.

(5) After the juvenile has consulted with legal counsel, the juvenile may advise, direct a parent or guardian to advise, or direct legal counsel to advise the law enforcement officer that the juvenile chooses to assert a constitutional right. Any assertion of constitutional rights by the juvenile through legal counsel must be treated by a law enforcement officer as though it came from the juvenile. The waiver of any constitutional rights of the juvenile may only be made according to the requirements of RCW [**13.40.140**](http://app.leg.wa.gov/RCW/default.aspx?cite=13.40.140).

## Open Carry and Concealed Weapons

Washington law permits its residents to openly carry firearms.

[RCW 9.41.050](https://app.leg.wa.gov/rcw/default.aspx?cite=9.41.050) and [9.41.060.](https://app.leg.wa.gov/rcw/default.aspx?cite=9.41.060)

The fact that other statutes prevent convicted felons from possessing guns does not allow an officer to detain an armed stranger in their midst until the officer performs a record check.

“Being a felon in possession of a firearm is not the default status.”

**United States v. Black, 707 F.3d 531, 540 (4th Cir. 2013); United States v. Ubiles, 224 F.3d 213, 218 (3d Cir. 2000).**

Washington law does restrict the carrying of a concealed firearm to individuals who have a concealed pistol license. There is, however, no presumption that a person carrying a concealed firearm lacks the required permit.

**People v. Murrell, 56 V.I. 796 (2012) (no presumption that person carrying firearm lacks permit)**

## Crisis:

* De-escalate
* Time Distance Shielding

## ITA Prongs

* Danger to self
* Danger to others
* Danger to property
* Gravely disabled

**RCW 71.05.153**

Emergency detention of persons with behavioral health disorders—Procedure.

(ii) When he or she has reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

**RCW 71.05.020**

(7) "Behavioral health disorder" means either a mental disorder as defined in this section, a substance use disorder as defined in this section, or a co-occurring mental disorder and substance use disorder;

(36) "Likelihood of serious harm" means:

(a) A substantial risk that: (i) Physical harm will be inflicted by a person upon his or her own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(ii) physical harm will be inflicted by a person upon another, as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm; or

(iii) physical harm will be inflicted by a person upon the property of others, as evidenced by behavior which has caused substantial loss or damage to the property of others; or

(b) The person has threatened the physical safety of another and has a history of one or more violent acts;

(24) "Gravely disabled" means a condition in which a person, as a result of a behavioral health disorder: (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or (b) manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety;

## Use of Force

**Case Law:**

[Graham v. Connor](https://scholar.google.com/scholar_case?case=4306215806680760770&q=graham+v+connor&hl=en&as_sdt=6,48)

* the severity of the crime at issue,
* whether the suspect poses an immediate threat to the safety of the officers or others, and
* whether he is actively resisting arrest or attempting to evade arrest by flight.

**Intermediate Force:**

[Young v. County of Los Angeles, 655 F. 3d 1156 - Court of Appeals, 9th Circuit 2011](https://scholar.google.com/scholar_case?case=7244655697929059531&hl=en&as_sdt=6,48)

[Bryan v. MacPherson, 630 F. 3d 805 - Court of Appeals, 9th Circuit 2010](https://scholar.google.com/scholar_case?case=12565390910718179186&q=bryan+v+macpherson&hl=en&as_sdt=6,48)

**Deadly force:**

[Tennessee v. Garner, 471 US 1 - Supreme Court 1985](https://scholar.google.com/scholar_case?case=5843997099226288287&q=tennessee+v+garner&hl=en&as_sdt=6,48)

## AG Model Policy

[Washington State Office of the Attorney General; Model Use of Force Policy](https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/UOF%20Model%20Policies_070122_FINAL_0.pdf)

These are excerpts from Policy

You are expected to be familiar with the entire policy

**Definitions:**

**Necessary:** under the totality of the circumstances, a reasonably effective alternative to the use of physical force or deadly force does not appear to exist, and the type and amount of physical force or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. [(RCW 10.120.010 [2022 c 80 §2]).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

**Physical force:** any act reasonably likely to cause physical pain or injury or any other act exerted Model Use of Force Policy 4 upon a person’s body to compel, control, constrain, or restrain the person’s movement. Physical force does not include pat-downs, incidental touching, verbal commands, or compliant handcuffing where there is no physical pain or injury. [(RCW 10.120.010).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

**Deadly force:** the intentional application of force through the use of firearms or any other means reasonably likely to cause death or serious physical injury. [(RCW 9A.16.010).](https://app.leg.wa.gov/RCW/default.aspx?cite=9A.16.010)

**De-escalation tactics:** actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident. [(RCW 10.120.010 [2022 c 4 §2])](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010). Using physical force is not a de-escalation tactic.

**Immediate threat of serious bodily injury or death:** based on the totality of the circumstances, it is objectively reasonable to believe that a person has the present and apparent ability, opportunity, and intent to immediately cause death or serious body injury to the peace officer or another person. [(RCW 10.120.020 [2022 c 80 §3]).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

**Totality of the circumstances:** all facts known to the officer leading up to, and at the time of, the use of force, and includes the actions of the person against whom the officer uses such force, and the actions of the officer. [(RCW 10.120.010).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

**Core Principles:**

**Core Principle: Duty to De-Escalate**

When possible, officers shall use all available and appropriate de-escalation tactics prior to using physical force. [(RCW 10.120.020 [2022 c 4 §3]).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

**Core Principle: Duty to Use Reasonable Care**

Consider people’s characteristics and conditions, including children, elderly persons, pregnant individuals, Limited English Proficiency speakers and those demonstrating mental, behavioral, physical, cognitive and perceptual impairments or disabilities, when determining whether to use physical force or deadly force, and if necessary, the appropriate and least amount of physical force possible to effect a lawful purpose. [(RCW 10.120.020).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

**Core Principle: Perform Community Caretaking Functions**

Nothing in this policy limits or restricts an officer’s ability to respond to a call for community caretaking or protection of health and safety, and to use the appropriate and least amount of physical force to execute those functions. [(RCW 10.120.020 [2022 c 4 §3]).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010) The same standards for using physical force apply. However, incidental touching, which may occur in the course of community caretaking, is not defined as physical force.

Reasonable care means that the officer shall:

(1) When possible, use all available and appropriate de-escalation tactics before using physical force. [(RCW 10.120.010 [2022 c 4 §3].](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

(2) Consider the characteristics and conditions of a person for the purposes of determining whether to use physical force or deadly force against that person and, if physical force is necessary, determine the appropriate and least amount of physical force possible to effect a lawful purpose. Such characteristics and conditions may include, for example, whether the person:

(a) Is visibly pregnant, or states that they are pregnant;

(b) Is known to be a minor, objectively appears to be a minor, or states that they are a minor;

(c) Is known to be a vulnerable adult, or objectively appears to be a vulnerable adult as defined by RCW 74.34.020;

(d) Displays signs of mental, behavioral, intellectual, developmental or physical impairments or disabilities;

(e) Is experiencing perceptual or cognitive impairments typically related to the use of alcohol, narcotics, hallucinogens, or other drugs;

(f) Is suicidal;

(g) Has limited English proficiency; or

(h) Is in the presence of children. (RCW 10.120.020).

(3) Terminate the use of physical force as soon as the necessity for such force ends. [(RCW 10.120.020).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

**Core Principle: Use Only the Least Amount of Force Necessary to Safely Achieve a Legitimate Law Enforcement Objective Under the Circumstances.** [(RCW 10.120.020).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.010)

Law enforcement encounters rapidly evolve and are not static. Thus, officers must continuously assess the necessity and effectiveness of their actions, including their tactical positioning, to decrease the likelihood of needing to use physical force.

(1) For physical force to be necessary, a reasonably effective alternative does not appear to exist and the use of force must be a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others.

(a) Reasonableness shall be evaluated based on the totality of circumstances known to the officer leading up to, and at the time of, the use of physical force, including the immediacy of the threat, the actions of the person against whom force is used, the actions of the officer, and the seriousness of the law enforcement purpose. Determining whether physical force is reasonable includes assessing whether the officer made tactical decisions to minimize unnecessary risk to themselves and others, used all available and appropriate de-escalation tactics when possible prior to using physical force and exercised reasonable care when using physical force.

(b) Proportionality shall be evaluated based on whether the use of physical force corresponds to the immediacy and severity of the threat or resistance the officer encounters at the time force is applied, as well as the seriousness of the law enforcement objective that is being served. The threat or resistance may change over the course of the incident. Proportional force does not require officers to use the same type or amount of physical force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be proportional.

**Use of Physical Force Must Be for a Lawful Purpose.** An officer may use physical force against a person to the extent necessary to:

(a) Protect against an imminent threat of bodily injury to the officer, another person, or the person against whom physical force is being used [(RCW 10.120.020);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(b) Protect against a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense [(RCW 10.120.020 [2022 c 80 §3]);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(c) Effect an arrest [(RCW 10.120.020);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(d) Take a person into custody when authorized or directed by statute (RCW 10.120.020 [2022 c 80 §3]);

(e) Prevent an escape as defined under chapter 9A.76 RCW [(RCW 10.120.020);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(f) Prevent a person from fleeing or stop a person who is actively fleeing a lawful temporary investigative detention, provided that the person has been given notice that he or she is being detained and is not free to leave [(RCW 10.120.020 [2022 c 80 §3]);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(g) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under chapter 10.77, 71.05, or 71.34 RCW [(RCW 10.120.020 [2022 c 4 §3]);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(h) Take a minor into protective custody when authorized or directed by statute [(RCW 10.120.020 [2022 c 4 §3]);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(i) Execute or enforce a court order authorizing or directing an officer to take a person into custody [(RCW 10.120.020 [2022 c 4 §3]);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(j) Execute a search warrant [(RCW 10.120.020 [2022 c 4 §3]);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

(k) Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written Model Use of Force Policy 8 order where the court expressly authorizes an officer to use physical force to execute or enforce the directive or order [(RCW 10.120.020 [2022 c 4 §3]);](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020) or

(l) Execute any other community caretaking function, including but not limited to performing welfare checks, assisting other first responders and medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any member of the public [(RCW 10.120.020 [2022 c 4 §3]).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

**Identification, Warning & Opportunity to Comply Prior to the Use of Physical Force**

When safe and feasible, prior to the use of physical force, officers shall:

(1) Identify themselves as law enforcement officers;

(2) Attempt to determine whether the person has a special need, mental condition, physical limitation, developmental disability, language barrier, or other factor that may impact their ability to understand and comply with officer commands;

(3) Provide clear instructions and warnings;

(4) Warn a person that physical force will be used unless their resistance ceases; and

(5) Give the person a reasonable opportunity to comply with the warning that physical force may be used.

**Use of Chokeholds and Neck Restraints Prohibited**

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. [(RCW 10.116.020).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.116.020)

**Core Principles: Duty to Intervene and Duty to Report Wrongdoing** [(RCW 10.93.190).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.93.190)

**Core Principle: Duty to Provide or Facilitate First Aid**

All law enforcement personnel must provide or facilitate first aid such that it is rendered at the earliest safe opportunity to injured persons at a scene controlled by law enforcement. [(RCW 36.28A.445).](https://app.leg.wa.gov/RCW/default.aspx?cite=36.28A.445)

**Core Principle: Use the Least Amount of Physical Force Necessary to Overcome Resistance Under the Circumstances.** [(RCW 10.120.020).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

**Core Principle: Use Deadly Force Only When Necessary to Protect Against an Immediate Threat of Serious Physical Injury or Death.** [(RCW 10.120.020 [2022 c 80 §3 and 2022 c 4 §3]).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

**Lower Level Physical Force:** This type of force is not intended to and has a low probability of causing injury, but may cause momentary discomfort or pain.

**Intermediate Physical Force:** This type of physical force poses a foreseeable risk of significant injury or harm but is neither likely nor intended to cause death.

**Deadly Force:** An officer may use deadly force against another person only when deadly force is necessary to protect against an immediate threat of serious physical injury or death to the officer or another person. (RCW 10.120.020). Officers shall not use deadly force against persons who present a danger only to themselves and do not pose an immediate threat of death or serious bodily injury to another person or officer.

**Core Principle: Whenever Possible, Use Available and Appropriate Less Lethal Alternatives Before Using Deadly Force.** [(RCW 10.120.020).](https://app.leg.wa.gov/RCW/default.aspx?cite=10.120.020)

# Vehicles

## Traffic

* Legal Authority (PC for traffic violation)
* 5 Principles
* Vehicle positioning
* Radio use
* Emergency equipment use
* Exiting vehicle
* Scan of vehicle and surroundings
* Approach to vehicle
* Positioning
  + Driver vs. Passenger side
  + A-B-C Pillar
* Scan and Control Hands
* Obtain documentation
* Return to vehicle and investigate
* Return to violator and conclude contact
  + Cite or Warn

[**RCW 46.61.005**](https://app.leg.wa.gov/RCW/default.aspx?cite=46.61.005)

**Chapter refers to vehicles upon highways—Exceptions.**

The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section.

(2) The provisions of [RCW 46.52.010](https://app.leg.wa.gov/RCW/default.aspx?cite=46.52) through [46.52.090](https://app.leg.wa.gov/RCW/default.aspx?cite=46.52), [46.61.500](https://app.leg.wa.gov/RCW/default.aspx?cite=46.61) through [46.61.525](https://app.leg.wa.gov/RCW/default.aspx?cite=46.61), and [46.61.5249](https://app.leg.wa.gov/RCW/default.aspx?cite=46.61) shall apply upon highways and elsewhere throughout the state.

[**RCW 46.04.197**](https://app.leg.wa.gov/RCW/default.aspx?cite=46.04.197)

**Highway.**

Highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**Legal Authority for Traffic Stops**

**Legal Standard**

* [State v. Snapp, 174 Wn.2d 177, 197, 275 P.3d 289 (2012).](https://scholar.google.com/scholar_case?case=11342770702677287613&hl=en&as_sdt=6,48)
* Reasonable suspicion (to make the stop)
* “probable cause . . . is the wrong standard” for deciding whether an officer properly stopped a vehicle to investigate a traffic infraction.
* The correct standard is Terry’s reasonable suspicion. In reviewing the propriety of a Terry stop for a traffic infraction, a court evaluates the totality of the circumstances… The question of a valid stop does not depend upon the motorist actually having violated the statute. Rather, if the officer had a reasonable suspicion that the motorist was violating the statute, the stop was justified.

**RCW**[**46.61.021**](http://app.leg.wa.gov/RCW/default.aspx?cite=46.61.021)

**Duty to obey law enforcement officer—Authority of officer.**

(1) Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

(2) Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants, check the status of the person's license, insurance identification card, and the vehicle's registration, and complete and issue a notice of traffic infraction.

(3) Any person requested to identify himself or herself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself or herself and give his or her current address.

**Violations and Infractions**

RCW [46.63.030](http://app.leg.wa.gov/RCW/default.aspx?cite=46.63.030)

**Notice of traffic infraction—Issuance—Abandoned vehicles.**

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence, except as provided in RCW [46.09.485](http://app.leg.wa.gov/RCW/default.aspx?cite=46.09.485);

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction;

(d) When the infraction is detected through the use of an automated traffic safety camera under RCW [46.63.170](http://app.leg.wa.gov/RCW/default.aspx?cite=46.63.170); or

(e) When the infraction is detected through the use of an automated school bus safety camera under RCW [46.63.180](http://app.leg.wa.gov/RCW/default.aspx?cite=46.63.180).

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

**Secondary Violations**

May not be stopped solely for a Secondary Violation

May only be enforced after a vehicle has been stopped for a Primary violation

**RCW**[**46.37.680**](http://app.leg.wa.gov/RCW/default.aspx?cite=46.37.680)

**Sound system attachment.**

(1) All vehicle sound system components, including any supplemental speaker systems or components, must be securely attached to the vehicle regardless of where the components are located, so that the components cannot become dislodged or loose during operation of the vehicle.

(2) Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

**RCW**[**46.20.075**](http://app.leg.wa.gov/RCW/default.aspx?cite=46.20.075)

**Intermediate license.**

1. An intermediate license authorizes the holder to drive a motor vehicle under the conditions specified in this section. An applicant for an intermediate license must be at least sixteen years of age and:….

(6) Except for a violation of subsection (4) of this section, enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of this title or an equivalent local ordinance or some other offense.

**RCW**[**46.61.673**](http://app.leg.wa.gov/RCW/default.aspx?cite=46.61.673)

**Dangerously distracted driving.**

(1)(a) It is a traffic infraction to drive dangerously distracted. Any driver who commits this infraction must be assessed a base penalty of thirty dollars.

(b) Enforcement of the infraction of driving dangerously distracted may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of a separate traffic infraction or an equivalent local ordinance.

**Your agency policy may be more restrictive regarding primary/secondary traffic violations**

## Pretext:

* **Pretext stops are not allowed in Washington**
* Traffic stop and the investigation related to the stop must be for the identified violation, not as a way to circumvent Reasonable Suspicion or Probable Cause
* “A pretextual stop occurs when the police use a legal justification to make the stop in order to search a person or place, or to interrogate a person, for an unrelated serious crime for which they do not have the reasonable suspicion necessary to support a stop."

[United States v. Guzman, 864 F.2d 1512, 1515 (10th Cir. 1988)](https://scholar.google.com/scholar_case?case=12746756118049873272&q=united+states+v+guzman&hl=en&as_sdt=4,74,81,91,98,101,106,120,137,144,154,161,164,295,296,297,358,359,360,384)

* We conclude the citizens of Washington have held, and are entitled to hold, a constitutionally protected interest against warrantless traffic stops or seizures on a mere pretext to dispense with the warrant when the true reason for the seizure is not exempt from the warrant requirement. We therefore hold pretextual traffic stops violate article I, section 7, because they are seizures absent the "authority of law" which a warrant would bring. Const. art. I, § 7.

[State v. Ladson, 979 P. 2d 833 - Wash: Supreme Court 1999](https://scholar.google.com/scholar_case?case=13704431909460239836&q=ladson&hl=en&as_sdt=6,48)

“An officer may not use a traffic infraction as a pretext to stop a citizen and search for evidence of criminal wrongdoing that is unrelated to the reason for the stop. [*State v. Ladson,* 138 Wash.2d 343, 357-58, 979 P.2d 833 (1999)](https://scholar.google.com/scholar_case?case=13704431909460239836&hl=en&as_sdt=6,48). The officer's motivation in making the stop must be the traffic infraction, not a desire to arrest the driver and search for evidence. Police officers may enforce the traffic code, so long as they do not use the authority to do so as a pretext to conduct an unrelated criminal investigation. In determining whether a stop is pretextual, the court considers the totality of the circumstances, including both the subjective intent of the officer and the objective reasonableness of the officer's behavior.”

[State v. Snapp, 174 Wn.2d 177, 197, 275 P.3d 289 (2012).](https://scholar.google.com/scholar_case?case=11342770702677287613&hl=en&as_sdt=6,48)

* … Accordingly, courts considering similar situations have indicated that where there is an outstanding warrant, an arrest and subsequent seizure of evidence of another crime is valid; the arrest is not considered a mere pretext.

[State v. Davis, 669 P. 2d 900 - Wash: Court of Appeals, 1st Div. 1983](https://scholar.google.com/scholar_case?case=15066002471051907011&hl=en&as_sdt=6,48)

**M/C Profiling**

* **M/C profiling is not allowed in Washington**
* [**RCW 43.101.419  
  Motorcycle profiling.**](https://app.leg.wa.gov/rcw/default.aspx?cite=43.101.419)(1) The criminal justice training commission shall ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered to in-service law enforcement officers in conjunction with existing training regarding profiling.  
  (2) Local law enforcement agencies shall add a statement condemning motorcycle profiling to existing policies regarding profiling.  
  (3) For the purposes of this section, "motorcycle profiling" means the illegal use of the fact that a person rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without a legal basis under the United States Constitution or Washington state Constitution.  
  [ [2011 c 49 § 1.](http://lawfilesext.leg.wa.gov/biennium/2011-12/Pdf/Bills/Session%20Laws/Senate/5242.SL.pdf?cite=2011%20c%2049%20§%201.)]

## Control of driver

* You can tell the driver to exit or remain in the vehicle without further justification
* The driver must provide ID
* If the PASSENGER committed the infraction or violation that was the basis for the stop, the driver may not be compelled to provide identification

## Control of passengers

* [State v. Mendez, 970 P. 2d 722 - Wash: Supreme Court 1999](https://scholar.google.com/scholar_case?case=12957644390376220246&q=state+v.+mendez&hl=en&as_sdt=6,48)
* Const. art. I, § 7 prohibits law enforcement officers from restricting the movements of passengers in lawfully stopped vehicles absent **objective rationale predicated upon safety considerations.**
* Need not meet Terry 's standard of reasonable suspicion of criminal activity.
* Terry must only be met if the purpose of the officer's interaction with the passenger is investigatory.
* For purposes of controlling the scene of the traffic stop and to preserve safety there, the standard is something less.
* If the passenger chooses to stay, they are subject to restrictions, **potentially including frisk**

[State v. Horton, 146 P. 3d 1227 - Wash: Court of Appeals, 3rd Div. 2006](https://scholar.google.com/scholar_case?case=16856125855862616404&q=state+v.+horton&hl=en&as_sdt=4,48)

* A reasonable concern for officer safety is a sufficient independent ground to pat down a passenger… (citing [*State v. Kennedy,* 107 Wash.2d 1, 11, 726 P.2d 445 (1986)](https://scholar.google.com/scholar_case?case=18229732045014436440&q=state+v.+horton&hl=en&as_sdt=4,48)

## ID of passengers

* + [State v. Rankin, 151 Wn.2d 689, 92 P.3d 202 (2004).](https://scholar.google.com/scholar_case?case=239388813861978427&hl=en&as_sdt=6,48)
  + A lawful seizure of a vehicle does not provide any basis for seizing passengers who have not personally committed any infraction.
  + If the passenger has committed an infraction, they need to identify themselves
  + If the passenger has not committed an infraction, they are free to go or to stay
  + If the passenger is detained in relation to Reasonable Suspicion of a crime, they are not free to go
  + The officer may engage in conversation, but not investigation
  + The officer may not request ID from a passenger, absent a lawful detention of the passenger for an infraction, Reasonable Suspicion, or Probable Cause or is a witness to a crime for which the driver is being arrested
  + If the passenger wishes to drive the vehicle, you can check their license status.
  + [State v. Mennegar, 114 Wn.2d 304, 787 P.2d 1347 (1990).](https://scholar.google.com/scholar_case?case=8221920175655525962&q=state+v+mennegar&hl=en&as_sdt=4,48)

## Search of vehicle

* [State v. Snapp, 275 P. 3d 289 - Wash: Supreme Court 2012](https://scholar.google.com/scholar_case?case=11342770702677287613&q=state+v+snapp&hl=en&as_sdt=4,48)
* Generally, need a warrant to search a vehicle
* May do an inventory search of vehicle prior to impound
  + Unlocked compartments
  + Unlocked containers
  + Accessible trunk release does not make the trunk “unlocked”
* This curriculum will not teach opening the trunk as part of the High-Risk Vehicle Stop clearing process, absent specific exigent circumstances or community caretaking concerns
  + Agency tactics may vary in this regard

## Consent to Search Vehicles

* Can obtain consent to search
  + Knowingly
  + Voluntarily
  + Intelligently
* May not extend a traffic stop to obtain consent to search without Reasonable Suspicion
* Requesting consent to search during traffic stop for civil infraction or minor offense
* Ferrier (not required)
  + Refuse
  + Restrict
  + Revoke
* Ferrier is not required for vehicles—but advised in order to satisfy knowing, voluntary, intelligent consent

**\*Search of vehicle must occur while driver is still at scene**

**High-risk Vehicle Stops**

* May not search closed/locked containers or compartments (trunk)
* May check for specific exigency or community caretaking concerns

## Legal Authority: Vehicles

**What is the reason for the contact?**

**Legal Authority to stop a vehicle?**

**Do you need Reasonable Suspicion or Probable Cause?**

**Is pursuit authorized?**

**When does a stop become a pursuit?**

**What if the driver exits the Vehicle / walks away?**

**What if the passenger exits the vehicle / walks away?**

**What is the reason for the contact?**

* Traffic violation
* Traffic or other crime
* Reasonable suspicion of a crime

**Where do you get Legal authority to stop vehicles?**

**RCW**[**46.63.030**](http://app.leg.wa.gov/RCW/default.aspx?cite=46.63.030)

**Notice of traffic infraction—Issuance—Abandoned vehicles.**

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence, except as provided in RCW [46.09.485](http://app.leg.wa.gov/RCW/default.aspx?cite=46.09.485);

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction;

(d) When the infraction is detected through the use of an automated traffic safety camera under RCW [46.63.170](http://app.leg.wa.gov/RCW/default.aspx?cite=46.63.170); or

(e) When the infraction is detected through the use of an automated school bus safety camera under RCW [46.63.180](http://app.leg.wa.gov/RCW/default.aspx?cite=46.63.180).

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

**What can you do on a traffic stop?**

**RCW**[**46.61.021**](http://app.leg.wa.gov/RCW/default.aspx?cite=46.61.021)

**Duty to obey law enforcement officer—Authority of officer.**

(1) Any person requested or signaled to stop by a law enforcement officer for a traffic infraction has a duty to stop.

(2) Whenever any person is stopped for a traffic infraction, the officer may detain that person for a reasonable period of time necessary to identify the person, check for outstanding warrants, check the status of the person's license, insurance identification card, and the vehicle's registration, and complete and issue a notice of traffic infraction.

(3) Any person requested to identify himself or herself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself or herself and give his or her current address.

**Reasonable Suspicion or Probable Cause?**

* For the stop, may be RS or PC, based on circumstances
  + Lower requirement (RS) for traffic violations due to vehicle mobility
* Other civil infractions (littering, etc) require Probable Cause
* For issuing a citation: Probable Cause

**What level of seizure / type of contact is it?**

* Contacting a subject in a vehicle does not necessarily make the contact a traffic stop.
* Your legal authority regarding control and identification of passengers and drivers is different for Terry, Social, or Traffic

**Is pursuit authorized?**

* + Refer to your agency policy, as it may be more restrictive
  + Updated RCW gives specific circumstances

**RCW**[**10.116.060**](http://app.leg.wa.gov/RCW/default.aspx?cite=10.116.060)

**Vehicular pursuit.**

\*\*\* CHANGE IN 2023 \*\*\* (SEE [5352.SL](http://lawfilesext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5352.SL.pdf)) \*\*\*

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

(a) (i) There is probable cause to believe that a person in the vehicle has committed or is committing a violent offense or sex offense as defined in RCW [9.94A.030](http://app.leg.wa.gov/RCW/default.aspx?cite=9.94A.030), or an escape under chapter [9A.76](http://app.leg.wa.gov/RCW/default.aspx?cite=9A.76) RCW; or

(ii) There is reasonable suspicion a person in the vehicle has committed or is committing a driving under the influence offense under RCW [46.61.502](http://app.leg.wa.gov/RCW/default.aspx?cite=46.61.502);

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

(c) The person poses an imminent threat to the safety of 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 officer has received authorization to engage in the pursuit from a supervising officer and there is supervisory control of the pursuit. The officer in consultation with the supervising officer must consider alternatives to the vehicular pursuit. The supervisor must consider 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, and the vehicular pursuit must be terminated if any of the requirements of this subsection are not met;

(ii) For those jurisdictions with fewer than 10 commissioned officers, if a supervisor is not on duty at the time, the officer will request the on-call supervisor be notified of the pursuit according to the agency's procedures. The officer must consider 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. The officer must terminate the vehicular pursuit if any of the requirements of this subsection are not met.

(2) A pursuing officer 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 and comply with any agency procedures for coordinating operations with other jurisdictions, including available tribal police departments when applicable.

(3) 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.

**What if the driver doesn’t stop right away?**

**How long is too long?**

**When does it become a pursuit?**

* Is the driver aware of your signaling?
* Is the driver resisting or ignoring your attempt?
  + Increasing speed
  + Making evasive maneuvers
  + Operating vehicle recklessly; endangering you or others

Reference:

**RCW**[**10.116.060**](https://app.leg.wa.gov/RCW/default.aspx?cite=10.116.060)**--Vehicular Pursuit**

(4) 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.

**What if the driver exits the vehicle / walks away?**

* The driver is detained (if the driver committed the violation) and is not free to leave
* We can order the driver to stay in the vehicle, or exit the vehicle
  + As the officer determines is necessary to control the scene and interact safely with the driver

**What if the passenger exits the vehicle / walks away?**

* Unless a passenger committed a violation/infraction/crime, passengers are free to leave.
  + However, if a passenger remains at the scene of a traffic stop, they are subject to the control of the officer, for reasons predicated on specific officer safety concerns.

**If passengers object to any restrictions on their movements, they are free to leave the scene or remain a reasonable distance away, so as not to interfere with the stop, until the stop is concluded.**

Reference: [State v. Mendez, 970 P. 2d 722 - Wash: Supreme Court 1999](https://scholar.google.com/scholar_case?case=12957644390376220246&hl=en&as_sdt=6,48)

… Where the officer has probable cause to stop a car for a traffic infraction, the officer may, incident to such stop, take whatever steps necessary to control the scene, including ordering the driver to stay in the vehicle or exit it, as circumstances warrant. This is a de minimis intrusion upon the driver's privacy under art. I, § 7.

However, with regard to passengers, we decline to adopt such a bright line, categorical rule. A police officer should be able to control the scene and ensure his or her own safety, but this must be done with due regard to the privacy interests of the passenger, who was not stopped on the basis of probable cause by the police. An officer must therefore be able to articulate an objective rationale predicated specifically on safety concerns, for officers, vehicle occupants, or other citizens, for ordering a passenger to stay in the vehicle or to exit the vehicle to satisfy art. I, § 7.

…. to the extent such an objective rationale exists, the intrusion on the passenger is de minimis in light of the larger need to protect officers and to prevent the scene of a traffic stop from descending into a chaotic and dangerous situation for the officer, the vehicle occupants, and nearby citizens.

For purposes of controlling the scene of the traffic stop and to preserve safety there, we apply the standard of an objective rationale. Factors warranting an officer's direction to a passenger at a traffic stop may include the following:

the number of officers

the number of vehicle occupants

the behavior of the occupants

the time of day

the location of the stop

traffic at the scene

affected citizens

officer knowledge of the occupants

These factors are not meant to be exclusive; nor do we hold that any one factor, taken alone, automatically justifies an officer's direction to a passenger at a traffic stop.

The inquiry into the presence or absence of an objective rationale requires consideration of the circumstances present at the scene of the traffic stop.

**What if the vehicle contact is a Terry stop?**

* Keep in mind the reason for the stop. Contacting a subject in a vehicle does not necessarily make the contact a traffic stop.
* Your legal authority regarding control and identification of passengers and drivers is different for Terry, Social, or Traffic
* Handle the contact with the same considerations as a Terry stop as relates to search and seizure of involved subjects
* In a Terry stop of a vehicle, Terry considerations may apply to passengers and drivers alike, so passengers may not be free to leave.

## Threat Management: Vehicles

Where are you looking?

Where are you stopping?

What is the biggest threat?

What are you looking for?

**Where are you looking?**

* **Eyes on stopped vehicle throughout contact**
* On mirrors to check surroundings
* Scan environment when outside vehicle, with priority on highest threat

**Where are you stopping?**

* + Suitable place for driver to pull over?
    - Can you/should you delay the stop?
  + Roadway conditions and options
    - Shoulder, parking lot, driveway
  + People in area
  + Traffic
    - Blocking roadway
    - Speed and direction

**What is the biggest threat?**

* Dependent on environment
  + Urban environment, county road, interstate
  + Are there other people around?
  + Speed and intensity of traffic
* The vehicle should be the primary focus, with secondary focus on surrounding environment

**What are you looking for?**

**Vehicle**

* Is the vehicle running?
  + Exhaust visible or audible
  + Movement of vehicle
* Brake lights activated?
* Backup lights activated?
  + Did they flash on and off (putting it in/out of park)

**People**

* Number of occupants
* Movement inside vehicle
  + Furtive or concerning movement
  + Reaching under/behind seats
  + Putting hands on head/ceiling/out window without direction
  + Switching seats
* Occupant demeanor and behavior
  + Signs of anger/frustration
* Brake lights, backup lights, shifting from park to drive
* Is the vehicle running? (exhaust, engine sound)
* Driver/passenger exit

**Pace Control:**

* Make the stop when you are ready
* You control the speed of the contact as much as possible
* Pause for assessment of the vehicle and situation upon initial stop
* Pause and check surroundings before exiting vehicle
* Pause and assess before crossing the gap
* HOWEVER
* Your pace is a form of non-verbal communication
  + Too slow: may appear uncertain, timid, afraid, not in control
  + Too fast: careless, aggressive, hostile
  + Just right: Assertive, assured, careful, confident, professional
  + Disrupt OODA loop of vehicle occupants

## Position and Movement: Vehicles

How far behind before the stop?

How far behind when stopped?

What if the driver pulls to the left or stops in roadway?

Vehicle positioning

* Inline
* Offset
* Angled
* What do you need to do when the vehicle is stopped?
* Getting out of the vehicle
* Checking for overtaking traffic

**How far behind before the stop?**

* Close enough so the driver is aware they are the focus of the stop
* Close enough to fully utilize emergency equipment
* Close enough so other vehicles are not in between, if possible
* Far enough back to allow for sudden stops of the violator vehicle
  + Drivers may stop unexpectedly or drive in an unexpected manner
  + Criminal subjects may intentionally try to force a collision

**How far behind when stopped?**

* Generally 1 car length behind
* Close enough to observe occupants
* Close enough to fully utilize emergency equipment
* Far enough to provide for a reaction gap when you are at your vehicle

**What if the driver pulls to the left or stops in the roadway?**

* Evaluate Risks and Benefits
  + Can you safely contact the driver?
  + Can you direct them to pull to the right?
    - Will that cause more traffic disruption?

**How do you position your vehicle?**

* Environment dictates tactics
* Inline, offset, angled

**In-line:**

* + Police vehicle in wheel tracks of stopped vehicle
  + May be necessary due to roadway constraints
  + Allows full application of emergency lights/takedowns
  + Does not provide protection from traffic while at stopped vehicle

**Offset**

**S.T.O.P. Method**

* **S**pace between vehicles = 1 car length
* **T**urn Steering wheel fully to the right or left; depending on planned approach
* **O**verlap with stopped car 50% (toward driver side)
* **P**arallel to roadway (no angle)
* Provides protection from traffic while at driver’s side of stopped vehicle
* Allows full forward application of emergency lights/takedowns

- May potentially block traffic lane if vehicle is not far enough off roadway

**Angled**

* + Front of police vehicle angled 45 degrees to the left, with front right corner of police vehicle positioned toward center rear of stopped vehicle
  + Provides protection from passing traffic while at stopped vehicle
  + Provides protection from stopped vehicle for driver
  + Exposes passenger officer to threat from stopped vehicle
  + Emergency lights/takedowns offset, with diminished effect
  + May potentially block traffic lane if vehicle is not far enough off roadway

**What do you need to do when the violator stops?**

**WHILE KEEPING EYES ON VIOLATOR VEHICLE**

* Vehicle in park
* Parking brake set
* Turn wheels, dependent on setup and approach
* Seatbelt off and cleared, when appropriate
* Notify dispatcher of any updated location
* Spotlights / takedowns activated

**What do you need to do before exiting the vehicle?**

* Vehicle in park
* Parking brake set
* Seatbelt off and cleared
* Check rearview mirror and side mirrors
* Look over outside shoulder before opening door
* Look over outside shoulder once door is slightly ajar
* When clear, step out
* Close door without slamming
  + Slamming door alerts suspect you are beginning approach
  + Under cover of darkness/wall of light, suspect may not be able to visually detect your approach. Do not provide audible cues.

**How will you approach?**

* Environment dictates tactics
  + - Vehicle positions
    - Roadway type
    - Shoulder
    - Traffic flow
    - Pedestrians / other subjects
    - Vehicle occupants and behaviors
    - Type of vehicle

**Driver side approach**

May be necessary due to environmental constraints

+ Visibility of driver during contact

+ Driver may be at positional disadvantage with officer standing behind B-pillar

- May be more exposed to threat from driver

- May take longer to egress to Mitigation Zone

- May be more exposed to passing traffic (conventional roadway stop)

- Traffic may limit escape options on driver’s side

+/- Driver is in proximity to officer (less reaction time vs. ability to control driver)

**Passenger side approach**

May be necessary due to environmental constraints

+ Not exposed to passing traffic (conventional roadway stop)

+ Driver may not expect passenger side approach

+ Protection offered by B-pillar

+ Better view of areas driver may access during stop, such as glove box

+ Potential for increased difficulty for driver to engage officer during escape to Mitigation Zone due to obstructions within vehicle such as seats and headrests

**What is the Mitigation Zone and where is it? (Planning approach)**

* The area where officers are least exposed to threats from the vehicle.
* Roughly extends in an offset funnel backwards and outwards from the driver and passenger B-pillars
* Pillars and body of the stopped vehicle provide potential cover, as well as increase the difficulty for vehicle occupants to engage officers to the rear of the stopped vehicle
* Stack pillars when possible

## Communication: Vehicles

When do you broadcast?

What do you broadcast?

Verbal interaction with driver

Verbal interaction with passenger

**When do you broadcast?**

* Prior to initiation
  + Notifies dispatch/other units of call, if something goes wrong upon initiation
  + May have to update your location if vehicle does not stop right away
* After initiation
  + Will not have to update location
  + May have to broadcast information under duress (pursuit, confrontation)

**What do you broadcast?**

* Callsign and nature of contact (on traffic, out with a vehicle)
  + Usually pause to wait for dispatcher acknowledgement
  + Dispatcher may need time to access appropriate data mask on their screen
* Location
* Vehicle description (color, make/model, doors) and plate
* Occupied by how many?
* Any other relevant information about vehicle/location/occupants
* Request backup if needed

**What can you say to the driver if they get out?**

* Depends on legal authority
* Refer to previous section notes

**What can you say to the passenger if they get out?**

* + Depends on legal authority
  + Refer to previous section notes

## Equipment Management: Vehicles

**Emergency lighting use:**

* Look ahead to select appropriate area (wide shoulder, parking lot)
* Safe following distance to respond to sudden braking by vehicle
* Driver should be aware that they are the focus of your attention

**When do you activate your emergency lights?**

* + Slightly before the desired stop location
  + Account for driver reaction time, avoidance/denial, uncertainty
  + When you are prepared to focus on the vehicle/occupants

**Activation switch and options**

* + Full activation
  + Other activation options/programs
  + Blinkers
  + Rear/front options
  + Directional patterns/arrows
  + Low power

**What lights do you activate?**

* + Generally, activate all overhead emergency lights to notify driver and surrounding traffic of the intent to stop the violator vehicle

**Siren use:**

* When do you activate?
  + If necessary to gain driver’s attention
  + Usually just a short activation to get attention
  + Longer activation may agitate driver unnecessarily
  + Longer activation may draw unwanted attention from bystanders

**After the stop, what lights do you need to use?**

* Keep full overheads activated
  + May modify as appropriate
    - Directional rear arrows or signals
    - Low power as needed to facilitate operations in front of police vehicle
    - Blinkers to front, full to rear as appropriate
* Spotlights
* Takedowns
* Alley
* Other

**White light: spotlights, takedowns, alley lights**

* When do you use?
  + Generally, after vehicle is stopped
  + During daytime hours to obscure driver’s view of police vehicle and officer
* Where to aim spotlight
  + - Side view mirror
    - Rear view mirror
    - Other
* Be aware of effect on other drivers
  + - Blinding oncoming drivers is not conducive to overall safety
  + Alley lights may be useful to illuminate surroundings when in your vehicle

**When do you take your seatbelt off?**

* Environment dictates
* **R**isks **A**nd **B**enefits **I**n **E**very **S**ituation
  + Danger from being struck by overtaking/oncoming traffic
  + Danger from having to suddenly confront driver of stopped vehicle

**Do you take your keys and lock your doors when you exit?**

**R**isks **A**nd **B**enefits **I**n **E**very **S**ituation

* Taking keys/locking doors
* Key fobs may mitigate downsides of locking doors

+ Prevents theft of police vehicle

- Fine motor skills deteriorate under stress

- May be difficult to access equipment in vehicle under stress

* + - * IFAK
      * Long guns

- Vehicle side windows with laminate glass are difficult to break

* + Leaving vehicle running

- Risk of theft of running vehicle or gear inside

* + - * Environment and people may dictate risk level

+ Ready access to equipment in vehicle

+ Vehicle is ready to move, if needed

**Do you need your flashlight?**

* Always bring a flashlight
* Even if not in your hand, should be available

**Flashlight on or off?**

* Do you need to further illuminate interior of stopped vehicle?

Do you need flashlight off to conceal your approach?

## High-Risk Vehicle Stops

**Why HRVS?**

De-escalation

Utilize cover of vehicles

* Vehicles can stop / deflect / slow bullets
* Pillars provide strongest protection
  + NHTSA Collision standards
* Glass can deflect bullets

Windshield (top view)

Bullet deflection

Windshield (side view)

Bullet deflection

**Legal Authority**

* What is the reason for the stop
* Who is detained?
* Who is free to go?

**Making the stop**

* Location?
* Resources / Backup?
* Vehicle Positioning
  + 3-4 car lengths behind(greater distance than traffic stop)
  + Police vehicles side by side
  + In-line with suspect vehicle (not angled)
  + Offset in wheel tracks of suspect vehicle (1 car width between)
* Emergency Lighting / Spotlights / Takedowns
* Equipment ready?
  + Rifle
  + Shotgun
  + Less-Lethal
  + Plates / Helmet
* Exit vehicle after stopped and move to rear of police vehicles
  + Leave doors open? or closed?
  + Lock doors or unlocked?
* **Conform to cover**

**Planning, Pace, Roles**

**Primary**

* Covers suspect vehicle

**Secondary**

* Covers suspect vehicle

**Third/Fourth**

* Arrest team
* One person to communicate
  + What should they say?
* Who will do what?
* Does everyone know the plan?
* Is everyone ready to receive suspects?

**Callback**

* One suspect at a time
* What commands?
  + Control hands
  + Control person
* Sample Commands to driver
  + Identify self as police/sheriff
  + Roll down windows
  + Car off
  + Explain that you will be giving commands
  + Request careful compliance
  + You are being detained / under arrest
  + Warn about consequences if fail to comply, up to potential UOF
  + No movement or reaching
  + Keep hands visible as much as possible
  + Keys on roof or windshield or drop on ground (Do not say “Throw keys”)
  + Seatbelt off
  + Open door and put feet outside
  + Step out of car and face away (if appropriate)
  + Grab coat/shirt by back of collar
  + Pull up coat/shirt as high as possible
  + Spin slowly in place
  + Drop coat/shirt (or keep pulled up)
  + Walk slowly to…….
  + Get on knees (or fully prone, if appropriate)
  + Hands out to side
  + Do not move
* **One command / step at a time**
  + Gauge compliance at each step
* **Stop if unsure**
* **Stop if plan needs adjustment**
* One person at a time
* Generally, driver first (but circumstances dictate)
* Call back to Arrest Team
* Position of disadvantage

**Control and Cuffing**

* Officers stay on same lateral plane
  + Cover and Arrest officers shift position as needed
* Suspect at position of disadvantage
* Identify self and request compliance
* Clear commands
* One command at a time
* CREST model
* Search / Frisk based on Legal Authority
  + Need specific articulation beyond being in the vehicle, in order to cuff
* Pass off to support officers and/or secure in police vehicle

(Positioning may vary)

**Clearing**

* If any suspects will not exit vehicle, handle as BARRICADE
* Bluff vehicle
* If no response, **plan** approach and clearing
  + Roles and Areas of Responsibility
  + Generally, 3-person team
* In-line Approach
  + Same approach path as for traffic stop, on either side
    - In-line Approach will be the instructed tactic for PPB
    - As always, Environment dictates tactics, so risks and benefits of other tactics may be discussed in context
    - If other tactics are discussed or demonstrated, ensure students are aware of the the expectations for PPB competency testing
  + Clearing team has priority
  + Non-clearing officers should avoid muzzling clearing team
  + Point sets pace
  + Pause at trunk
    - Point: Vehicle interior
    - 2nd / 3rd: Check trunk is latched (clear if unlatched)
    - 3rd stays at trunk
  + Point and 2nd visually pie interior
  + If suspect located, determine safe and feasible resolution
    - Take immediate control or retreat to cover
  + Once vehicle is clear, announce clear to other officers

[State v. Snapp, 275 P. 3d 289 - Wash: Supreme Court 2012](https://scholar.google.com/scholar_case?case=11342770702677287613&q=state+v+snapp&hl=en&as_sdt=4,48)

* this curriculum will not teach opening the trunk as part of the High-Risk Vehicle Stop clearing process, absent specific exigent circumstances or community caretaking concerns
  + Agency tactics may vary in this regard
* May do an inventory search of vehicle prior to impound
  + Unlocked compartments
  + Unlocked containers
  + Accessible trunk release does not make the trunk “unlocked”
* Generally, need a warrant or appropriate consent to search a vehicle

# Buildings

## Building Search

* Legal Authority
* Approach and Setup
  + Keyholder
  + Containment
  + K9
  + Channel (hold the air)
* Knock and Announce
  + Hail from distance **or** move back from door to await response
* Angular Evaluation—Pie
* Communicate and Prepare for Entry
* Deliberate Entry
* Clear threshold, Pause, Scan
  + Do not over-penetrate
  + Check behind door
* Patch-to-Patch
* Clear and Sweep
* Third officer holds on Unknown threat, maintains cleared area
* Pace Control

Slow and Deliberate

## To Enter, you need:

**Warrant:**

**Arrest Warrant**

* Probable Cause to believe it is the residence of the person AND
* Probable Cause to believe person is actually there
* Not Valid at a third-party residence
* Not to be used in place of Search Warrant
* Probable Cause **does not** allow entry / Probable Cause **may be used** to apply for a warrant

**Search Warrant**

* Can be for:
* Evidence of a crime
* contraband, fruits of crime, or things otherwise criminally possessed
* Weapons or other things by means of which a crime has been committed or reasonably appears about to be committed
* person for whose arrest there is probable cause, or who is unlawfully restrained.
* **A search warrant is needed to enter a place to serve an arrest warrant on a person in a third-party (not the suspect’s) residence**

## Search Warrants

Washington courts adhere to the so-called *Aguilar-Spinelli* test: "[W]hen the existence of probable cause depends on an informant's tip, the affidavit in support of the warrant must establish the basis of the informant's information as well as the credibility of the informant."

[*State v. Ibarra,* 61 Wn. App. 695, 698, 812 P.2d 114 (1991)](https://scholar.google.com/scholar_case?case=16794034647278865425&hl=en&as_sdt=6,48) (citing [*State v. Jackson,* 102 Wn.2d 432, 433, 688 P.2d 136 (1984)](https://scholar.google.com/scholar_case?case=3619150494069885649&hl=en&as_sdt=6,48); [*Spinelli v. United States,* 393 U.S. 410, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969)](https://scholar.google.com/scholar_case?case=17799029384462151344&hl=en&as_sdt=6,48); [*Aguilar v. State of Texas,* 378 U.S. 108, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964)](https://scholar.google.com/scholar_case?case=5535754772693257767&hl=en&as_sdt=6,48)).

Generally, both prongs of the test must be present to establish probable cause. [*Jackson,* 102 Wn.2d at 437](https://scholar.google.com/scholar_case?case=3619150494069885649&hl=en&as_sdt=6,48); [*Ibarra,* 61 Wn. App. at 698](https://scholar.google.com/scholar_case?case=16794034647278865425&hl=en&as_sdt=6,48).

## Knock and Announce

* why?
  + De-escalate (reduce potential for violence)
  + Prevent unnecessary property damage
  + Protect privacy rights

**Before entry**

* Have a warrant
* Announce identity
* Demand Admittance
* State Purpose of demand
* Be denied admittance (explicit or implicit)
* No bright line for time to wait
  + Reasonable amount of time
    - for someone to get to door
    - to prevent destruction of evidence
* Not required to physically knock on the door
* Not required for consent entries
* “no knock” warrantsare **not allowed** in Washington

## Consent

* Gain affirmative consent
* Mere Acquiescence is not consent
* Landlords may not consent to search of tenant’s residence
* Hotel employees may not consent to search of rented rooms
* Third party consent will be based on determination if the person had authority to consent

## Ferrier

* Required Before conducting a search without a warrant
* Refuse
* Restrict
* Revoke
* Not required if not searching
* Not required if just investigating

## Multiple People: Consent

* Cohabitants who are present must both consent
* If any Cohabitant objects, officers may not search

[State v. Morse, Wash: Supreme Court 2005](https://scholar.google.com/scholar_case?case=8603551084375536404&hl=en&scisbd=2&as_sdt=4,248&sciodt=4,248)

## Thresholds

* Suspect must step outside threshold for officers to make arrest

[State v. Holeman, 693 P. 2d 89 - Wash: Supreme Court 1985](https://scholar.google.com/scholar_case?case=17541286169343827767&q=state+v+holeman&hl=en&as_sdt=4,48)

## Curtilage:

“all buildings in close proximity to a dwelling, which are continually used for carrying on domestic employment; or such place as is necessary and convenient to a dwelling, and is habitually used for family purposes.”

United States v. Potts, 297 F.2d 68, 69 (6th Cir. 1961).

* Curtilage is a protected area
* Officers may access areas that are open to the public

## Ruse:

* Officers may use a ruse to gain entry or to convince a person to come outside
* The general rule is that entry by ruse is permissible if no force is used.
  + [See State v. Myers, 102 Wn.2d 548, 689 P.2d 38 (1984).](https://scholar.google.com/scholar_case?case=13740629178968310557&q=state+v.+myers+ruse&hl=en&as_sdt=4,48)
* Officers need not announce their identity, authority, and purpose when using deception and no force.

[See State v. Huckaby, 15 Wn. App. 280, 549 P.2d 35, review denied, 87 Wn.2d 1006 (1976).](https://scholar.google.com/scholar_case?case=13045202815817093580&hl=en&as_sdt=6,48)

* The ruse used must not, however, "shock fundamental fairness".
* The ruse should not compel the person to do something they would not ordinarily do voluntarily
  + Not reasonable to tell someone their house is on fire, or a child has been injured, etc.

Plain View: Can see in **“plain view”** while standing in a protected area

* Still need to be in the area pursuant to an exception to the warrant requirement

Open View:Can see something inside a constitutionally protected area, while standing where you have right to be; “**out in the open”**

* Observation alone does not allow entry
  + Still need an exception to the warrant requirement

## Checking area / rooms / residence

* May conduct a protective sweep of immediate immediately adjoining areas if reasonably believe potential threat

[State v. Blockman, 416 P. 3d 1194 - Wash: Supreme Court 2018](https://scholar.google.com/scholar_case?case=10810792542097024146&q=state+v.+blockman&hl=en&as_sdt=6,48)

Despite differing interpretations regarding the scope of *Buie,* it is clear that protective sweeps are a limited exception to the warrant requirement. In order to conduct a valid protective sweep, officers who have reasonable suspicion to believe a home may harbor a dangerous third person may conduct a cursory sweep of a home. [*Buie,* 494 U.S. at 334, 110 S.Ct. 1093](https://scholar.google.com/scholar_case?case=14617911839617855186&q=sweep+of+area+frisk&hl=en&as_sdt=4,48). Or, if the officers do not have probable cause or reasonable suspicion, they are permitted to conduct a quick-look search of the spaces immediately adjoining the place of arrest.

* Numerous state[[6]](https://scholar.google.com/scholar_case?case=4520535824589376380&hl=en&as_sdt=6,48" \l "[6]) and federal[[7]](https://scholar.google.com/scholar_case?case=4520535824589376380&hl=en&as_sdt=6,48" \l "[7]) cases have recognized that the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid.

[Mincey v. Arizona, 437 US 385 - Supreme Court 1978](https://scholar.google.com/scholar_case?case=4520535824589376380&hl=en&as_sdt=6,48)

## Warrants:

**Payton/Steagald rule:**

[Payton v. New York, 445 US 573 (1980)](https://scholar.google.com/scholar_case?case=14936388408511643149&hl=en&as_sdt=6,48); [Steagald v. United States, 451 US 204 (1981)](https://scholar.google.com/scholar_case?case=17799359578516732373&hl=en&as_sdt=6,48)

An officer may not enter the home of a third party to make an arrest of the suspect unless:

* search warrant for the home of the third party

or

* consent of someone in charge of the premises,

or

* exigent circumstances exist

Entry to a first-party or third-party may not be forced with only probable cause

Warrants may be obtained with Probable Cause

Exceptions can occur with exigent circumstances

**Where can you serve the warrant?**

* Public place
* In a first-party residence with consent
* In a first-party residence without consent when all of the following:
  + the officer reasonably believes the suspect is present
  + a “knock and announce” is employed
  + the seriousness of the crime necessitates the entry
* In a third-party residence with consent or search warrant.

In a third-party residence is NOT reasonable when entry is forced UNLESS there are exigent circumstances

## Exigency / Emergency / Community Caretaking

* Obtaining a warrant would be unreasonable due to time constraints
* Obtaining a warrant would not apply to non-criminal situations, but it would be unreasonable to delay a response to the situation

### Exigency

* Related to a criminal matter, such as serious crime in progress

**For misdemeanors:**

* + Presumptively unreasonable
  + Seriousness of crime may allow
  + Hot Pursuit alone is not sufficient

While exigent circumstances can render some such entries acceptable, the gravity of the underlying offense tends to be the Key. Hot pursuit alone is not sufficient exigent circumstances.

State v. Altschuler, 53 Wn. App. 317, 321, 766 P.2d 518 (1989).

**For Felonies:**

The Fourth Amendment prohibits police from making a warrantless and nonconsensual entry into a suspect's home to make a routine felony arrest without exigent circumstances. [*State v. Terrovona,* 105 Wn.2d 632, 644, 716 P.2d 295 (1986)](https://scholar.google.com/scholar_case?case=2254447980279602520&hl=en&as_sdt=6,48) (citing [*Payton v. New York,* 445 U.S. 573, 63 L.Ed.2d 639, 100 S.Ct. 1371 (1980)](https://scholar.google.com/scholar_case?case=14936388408511643149&hl=en&as_sdt=6,48)).

All warrantless entries of a home are presumptively unreasonable, and the government bears the burden of demonstrating exigent circumstances that overcome this presumption of unreasonableness before agents of the government may invade the sanctity of the home. [*Welsh v. Wisconsin,* 466 U.S. 740, 749-50, 80 L.Ed.2d 732, 104 S.Ct. 2091 (1984)](https://scholar.google.com/scholar_case?case=6213241192880803973&hl=en&as_sdt=6,48).

**There are 11 factors to consider in determining whether exigent circumstances existed to justify a warrantless police entry into a home:**

(1) a grave offense, particularly a crime of violence, is involved;

(2) the suspect is reasonably believed to be armed;

(3) there is reasonably trustworthy information that the suspect is guilty;

(4) there is strong reason to believe that the suspect is on the premises;

(5) the suspect is likely to escape if not swiftly apprehended;

(6) the entry is made peaceably;

(7) hot pursuit;

(8) fleeing suspect;

(9) danger to arresting officer or to the public;

(10) mobility of the vehicle; and

(11) mobility or destruction of the evidence. [*Terrovona,* 105 Wn.2d at 644](https://scholar.google.com/scholar_case?case=2254447980279602520&hl=en&as_sdt=6,48).

### Emergency / Community Caretaking

* May be related to a non-criminal matter, such as a medical emergency
* May NOT be used to avoid getting a warrant, if a warrant is otherwise required

[State v. TEULILO, Wash: Supreme Court 2023](https://scholar.google.com/scholar_case?case=1031795939425151957&q=state+v+teulilo&hl=en&as_sdt=4,48)

[State v. Boisselle, 448 P. 3d 19 - Wash: Supreme Court 2019](https://scholar.google.com/scholar_case?case=16568362579660317057&hl=en&as_sdt=5,48&sciodt=6,48)

“…we hold that the emergency aid function of the community caretaking exception applies when

(1) the officer subjectively believed that an emergency existed requiring that he or she provide immediate assistance to protect or preserve life or property, or to prevent serious injury,

(2) a reasonable person in the same situation would similarly believe that there was a need for assistance, and

(3) there was a reasonable basis to associate the need for assistance with the place searched.

"The emergency aid doctrine is different from the `exigent circumstances' exception to the warrant requirement." [*Kinzy,* 141 Wash.2d at 386 n.39, 5 P.3d 668](https://scholar.google.com/scholar_case?case=15841425003517801656&q=state+v+teulilo&hl=en&as_sdt=4,48). Although both doctrines involve situations where law enforcement must act immediately, "[u]nlike the exigent circumstances exception, `the emergency [aid] doctrine does not involve officers investigating a crime.'" *Id.* (second alteration in original) (quoting [*Leupp,* 96 Wash. App. at 330, 980 P.2d 765](https://scholar.google.com/scholar_case?case=10709472969068659371&q=state+v+teulilo&hl=en&as_sdt=4,48)); *see*[*Davis,* 442 Mich. at 22, 497 N.W.2d 910](https://scholar.google.com/scholar_case?case=16684190966937363802&q=state+v+teulilo&hl=en&as_sdt=4,48) ("[T]he defining characteristic of community caretaking functions is that they are totally unrelated to the criminal investigation duties of the police.").

The defining characteristic of the community caretaking exception under article I, section 7 is that the warrantless search is totally unrelated to the criminal investigation duties of police and is not a pretext for a criminal investigation.

[State v. Schultz, 248 P. 3d 484 - Wash: Supreme Court 2011](https://scholar.google.com/scholar_case?case=13653144714252322537&q=state+v.+schultz&hl=en&as_sdt=4,48)

“… the likelihood that a situation involves domestic violence is an important consideration in evaluating the reasonableness of an officer's subjective belief that someone needs safety assistance. ……We hold that officers may not enter a home based upon acquiescence alone.”

“Courts may consider that an entry is made into a home in the context of a domestic violence threat in considering the reasonableness of officers' actions under the emergency aid exception.”

# Domestic violence Investigations

**Concept Review**

Entry—Legal Authority

Exigency / Community Caretaking / Emergency

Entering vs. Requesting subject exit

Scene Control

Separate

Handcuff

Frisk

Limited Search of immediate area

Investigation

Mandatory arrests

Court Orders

Entry—Legal Authority

Exigency / Community Caretaking / Emergency

* See related section for guidance on Exigency / Community Caretaking

**Legal Authority**

[State v. Schultz, 248 P. 3d 484 - Wash: Supreme Court 2011](https://scholar.google.com/scholar_case?case=13653144714252322537&q=state+v.+schultz&hl=en&as_sdt=4,48)

“Courts may consider that an entry is made into a home in the context of a domestic violence threat in considering the reasonableness of officers' actions under the emergency aid exception.”

Entering vs. Requesting subject exit

Entering:

* Ability to check on/for victims inside
* Ability to control involved parties
* Ability to limit access to weapons
* Access to suspect, if arrest is required

Requesting subject exit

* More difficult to control involved parties
* Not able to check on/for victims inside
* Less ability to limit access to weapons from inside
* May require additional resources to manage inside/outside scenes
* Contact / Cover may be compromised

Scene Control

* After establishing legal authority, scene control is top priority
* Avoid starting investigation until the scene is under control

Separate parties

* Prevents further assault
* Limits communication between parties
* Lessens potential for intimidation of victim by suspect

Handcuffing

* Handcuffing is not automatic
* Must articulate reasons to detain person in handcuffs
  + Involved in crime of violence
  + Potential for violence
  + Words, Actions, Behaviors

Frisk

* Frisking is not automatic
* Must articulate
  + Potential that subject is armed and presently dangerous
  + Involved in crime of violence
  + Frisk factors

Limited Search of immediate area

* Check couches, chairs, immediate area person will be standing/sitting
  + “frisk” the area
    - Under/behind cushions is okay
  + Areas readily accessible to subject
  + NOT a search for evidence / contraband
* Check adjoining rooms and areas for additional subjects / weapons

Investigation

* Story first
  + Names (for conversation)
  + Find out what happened
  + Relationships
  + Avoid notebook in hand unless needed to note crucial details
* Start writing
  + Note and Confirm details
  + Names (for identification)
  + DOB / Address / Phone / Email
* Run all names

**RCW**[**10.99.030**](http://app.leg.wa.gov/RCW/default.aspx?cite=10.99.030)

**Peace officers—Powers and duties *(as amended by 2019 c 367)*.**

The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(2)(a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer shall exercise arrest powers with reference to the criteria in RCW [**10.31.100**](http://app.leg.wa.gov/RCW/default.aspx?cite=10.31.100). The officer shall notify the victim of the victim's right to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(3)(a) A peace officer who responds to a domestic violence call and has probable cause to believe that a crime has been committed shall:

(i) Seize all firearms and ammunition the peace officer has reasonable grounds to believe were used or threatened to be used in the commission of the offense;

(ii) Seize all firearms in plain sight or discovered pursuant to a lawful search; and

(iii) Request consent to take temporary custody of any other firearms and ammunition to which the alleged abuser has access until a judicial officer has heard the matter.

(b) The peace officer shall separate the parties and then inquire of the victim: (i) If there are any firearms or ammunition in the home that are owned or possessed by either party; (ii) if the alleged abuser has access to any other firearms located off-site; and (iii) whether the alleged abuser has an active concealed pistol license, so that there is a complete record for future court proceedings. The inquiry should make clear to the victim that the peace officer is not asking only about whether a firearm was used at the time of the incident but also under other circumstances, such as whether the alleged abuser has kept a firearm in plain sight in a manner that is coercive, has threatened use of firearms in the past, or has additional firearms in a vehicle or other location. Law enforcement personnel may use a pictorial display of common firearms to assist the victim in identifying firearms.

(c) The peace officer shall document all information about firearms and concealed pistol licenses in the incident report. The incident report must be coded to indicate the presence of or access to firearms so that personal recognizance screeners, prosecutors, and judicial officers address the heightened risk to victim, family, and peace officer safety due to the alleged abuser's access to firearms.

(d) A law enforcement agency shall comply with the provisions of RCW [**9.41.340**](http://app.leg.wa.gov/RCW/default.aspx?cite=9.41.340) and [**9.41.345**](http://app.leg.wa.gov/RCW/default.aspx?cite=9.41.345) before the return of any firearm or ammunition seized under this subsection to the owner or individual from who the firearm or ammunition was obtained.

(4) When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county prosecuting attorney to file a criminal complaint. You also have the right to file a petition in superior, district, or municipal court requesting an order for protection from domestic abuse which could include any of the following: (a) An order restraining your abuser from further acts of abuse; (b) an order directing your abuser to leave your household; (c) an order preventing your abuser from entering your residence, school, business, or place of employment; (d) an order awarding you or the other parent custody of or visitation with your minor child or children; (e) an order restraining your abuser from molesting or interfering with minor children in your custody; and (f) an order requiring your abuser to turn in any firearms and concealed pistol license in the abuser's possession or control to law enforcement and prohibiting the abuser from possessing or accessing firearms or a concealed pistol license for the duration of the civil order. The forms you need to obtain a protection order are available in any municipal, district, or superior court.

Information about shelters and alternatives to domestic violence is available from a statewide twenty-four-hour toll-free hotline at (include appropriate phone number). The battered women's shelter and other resources in your area are . . . . . (include local information)"

(5) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

Mandatory arrests

* Establish relationship
* Determine if crime occurred
  + Mandatory arrest crime?
* Within 4 hours
  + Arrest is recommended, if PC for a crime is established, even outside the 4-hour window
* Observable injuries are not a requirement for establishing PC for an arrest

**RCW**[**10.31.100**](http://app.leg.wa.gov/RCW/default.aspx?cite=10.31.100)

**Arrest without warrant.**

1. A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

…

(d) The person is eighteen years or older and within the preceding four hours has assaulted a family or household member or intimate partner as defined in RCW [10.99.020](http://app.leg.wa.gov/RCW/default.aspx?cite=10.99.020) and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members or intimate partners have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (A) The intent to protect victims of domestic violence under RCW [10.99.010](http://app.leg.wa.gov/RCW/default.aspx?cite=10.99.010); (B) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (C) the history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse.

Court Orders

Petitioner: Person protected by an order

Respondent: Person restricted by an order

* Locate Court Order by checking names
* Determine if Court Order is in effect
  + Has not expired
  + Has been served on the Respondent
* If not sure of the requirements for enforcement, look up in the RCW

**RCW**[**10.31.100**](http://app.leg.wa.gov/RCW/default.aspx?cite=10.31.100)

**Arrest without warrant.**

1. A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) A domestic violence protection order, a sexual assault protection order, a stalking protection order, or a vulnerable adult protection order has been issued, of which the person has knowledge, under chapter [**7.105**](http://app.leg.wa.gov/RCW/default.aspx?cite=7.105) RCW, or an order has been issued, of which the person has knowledge, under RCW [**26.44.063**](http://app.leg.wa.gov/RCW/default.aspx?cite=26.44.063), or chapter [**9A.40**](http://app.leg.wa.gov/RCW/default.aspx?cite=9A.40), 9A.46, 9A.88, 10.99, 26.09, 26.26A, 26.26B, or [**74.34**](http://app.leg.wa.gov/RCW/default.aspx?cite=74.34) RCW, or any of the former chapters [**7.90**](http://app.leg.wa.gov/RCW/default.aspx?cite=7.90), 7.92, and [**26.50**](http://app.leg.wa.gov/RCW/default.aspx?cite=26.50) RCW, restraining the person and the person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of, or entering, a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle, or requiring the person to submit to electronic monitoring, or, in the case of an order issued under RCW [**26.44.063**](http://app.leg.wa.gov/RCW/default.aspx?cite=26.44.063), imposing any other restrictions or conditions upon the person;

(b) An extreme risk protection order has been issued against the person under chapter [**7.105**](http://app.leg.wa.gov/RCW/default.aspx?cite=7.105) RCW or former RCW [**7.94.040**](http://app.leg.wa.gov/RCW/default.aspx?cite=7.94.040), the person has knowledge of the order, and the person has violated the terms of the order prohibiting the person from having in the person's custody or control, purchasing, possessing, accessing, or receiving a firearm or concealed pistol license;

(c) A foreign protection order, as defined in RCW [**26.52.010**](http://app.leg.wa.gov/RCW/default.aspx?cite=26.52.010), or a Canadian domestic violence protection order, as defined in RCW [**26.55.010**](http://app.leg.wa.gov/RCW/default.aspx?cite=26.55.010), has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order or the Canadian domestic violence protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, a protected party's person, or a protected party's vehicle, or a violation of any provision for which the foreign protection order or the Canadian domestic violence protection order specifically indicates that a violation will be a crime; or

### Teaching Points: DV Investigations

* Contact / Cover
* Legal Authority
  + Consent for entry
  + Exigency
  + Community Caretaking
* Approach, Knock, Identify
* De-escalate
* Scene Control
  + Separate
  + Cuff and frisk (if necessary, not automatic)
* Story (interview each party)
* Start Writing (obtain and check information for each party)
  + Confirm any court orders/warrants
* Make determination regarding arrest
  + Mandatory elements
    - Crime
    - DV relationship
    - Within 4 hours
* Arrest suspect, if Probable Cause
  + CREST model
  + Search suspect
  + Mirandize suspect
* Medical aid
* Complete investigation and Provide Resources
  + Obtain victim/witness statements
  + Photographs and Evidence
  + Medical waiver
  + Provide DV resource pamphlet
  + Protection order information
  + Firearms / CPL (if PC crime has been committed)
    - Seize Firearms / Ammo used
    - Seize Firearms / Ammo in plain view or found during search
    - Request custody of Firearms / Ammo accessible to suspect
    - Inquire about Firearms / Ammo on-site
    - Inquire about Firearms / Ammo off-site
    - Inquire whether suspect has CPL
    - Document information
  + Offer transport or other assistance
* Complete documentation and referrals

# Preflex First

**breathe**

Pattern Breathing

Cleansing breaths

**scan**

Use all your senses

Take in information

**threat**

Identify all threats and threat zones

**position**

Be aware of your position

Distance (time)

Shielding

Communication

**cover**

Shielding

**connect**

Use communication to connect with People

Maintain control

Emotional Intelligence

**escape**

Escape opportunities for you

Escape opportunities for suspect

Disengage to de-escalate if safe and feasible

Police Phonetic Alphabet

Nora

Ocean

Paul

Queen

Robert

Sam

Tom

Union

Victor

William

Xray

Young

Zebra

Adam

Boy

Charles

David

Edward

Frank

George

Henry

Ida

John

King

Lincoln

Mary

# Interview Format

**SAFETY**

* Where is the suspect?
* Is the suspect armed?
* Suspect Description and travel
* Vehicle Description and travel
* Does anyone need medical attention?

**STORY**

**Suspect description**

* Race
* Gender
* Age
* Height
* Weight
* Hair color and style
* Eye color
* Top to Bottom Clothing
* Scars, Marks, Tattoos

**Vehicle Description**

* Color
* Year
* Make
* Model
* Body (4-door, 2-door)
* License
* Anything Distinctive

(tint, stickers, roof rack)

* Who you are / Advise of recording
* Who are you talking with?
* Who else is involved?
* What is the relation?
* What happened?
* When did this happen?
* Where did this happen?

**START WRITING**

* Recap understanding of incident
* Obtain identifying information
* Elements of Crime
  + Intent
  + Value of items
* Witnesses
* Evidence
* Video
* **Identification of involved parties**
* Name (Last, First, Middle)
* Date of Birth
* Address
* Phone number
* **Run all names**

# General Report Outline

**For general reports**

Your choice whether to use headings

This is a guide to ensure all information is captured

Your report is a chronological narrative of how the incident unfolded

**Set the Scene:**

* Description of self/duties at start of incident
  + Example:
    - On (date) I was working as (Call Sign) assigned to (duties and/or location).
    - I was in full uniform and operating a fully marked patrol vehicle.
    - About (time) I was dispatched to (or observed activity at) (location).
    - I activated by Body-Worn Video upon dispatch.
* Dispatched information or Observed Activity

**Legal Authority**

Legal Authority to be in an area

* Public area
* Consent
  + How did you gain consent to enter?
    - Knowing Intelligent Voluntary
  + Ferrier
* Warrant
* Exigency
* Community Caretaking

Based on initial information, at what level of contact did you start?

* Probable Cause for arrest
* Terry Stop
* Social Contact
* Community Caretaking / Emergency
* Crisis

**Arrival:**

Observations

What was happening when you arrived?

**Introduction**

How did you identify yourself?

Advisements of BWV /ICV recording

**Scene Control**

How did you control the scene?

* Handcuffing? Why?
  + Evaluation (gauged—double-locked)
* Frisking? Why?
  + Frisk Factors

**Story:**

Who did you contact?

What did they tell you?

What did you observe?

* Physical description
* Demeanor
* Evidence

**Decision:**

Summary of Investigation

Decision for resolution, based on investigation

* No enforcement action
* Warning
* Cite and Release
* Arrest and booking
* Booking Decline
* Hospital
* Other Community Caretaking resolution
* ITA
* Charges / No charges requested

**Evidence:**

Items / Photos / Recordings / Statement

* Who recovered
* Who submitted
* Where stored

Witness / victim statements

**Control, Restraint and Evaluation**

Notification of arrest

Control

Restrain with handcuffs

* Gauged and Double-Locked

Hobble

Spit Guard

**Search:**

1. Items recovered

**Transport:**

1. Who transported
2. Seatbelt or other restraints
3. Use of ICV or BWV
4. Advisements
   1. ICV or BWV
   2. Miranda

**Medical:**

For any involved people:

* Complaint of pain, complaint of injury, apparent injury, or absence of injury
* Treatment and/or Transport
* Refusal of medical aid

**Resources**

* Business card / Case number
* Informational pamphlets

**DV Investigation and Resources**

* Medical waiver
* Provide DV resource pamphlet
* ERPO information
* Firearms / CPL
  + Seize Firearms / Ammo used
  + Seize Firearms / Ammo in plain view or found during search
  + Request custody of Firearms / Ammo accessible to suspect
  + Inquire about Firearms / Ammo on-site
  + Inquire about Firearms / Ammo off-site
  + Inquire whether suspect has CPL
  + Document information
* Offer transport or other assistance

# Use of Force Report Outline

**Preface:**

Supervisor screening:

* Supervisor’s name/rank/serial number, date/time/location

Statement ordered? Garrity? (Agency-specific)

ICV and BWV recorded?

* Explain why none, if required by policy
* Note if you reviewed BWV or ICV prior to statement

**Pre-Arrival:**

Your relevant training/experience (brief biography)

Description of self at time of incident

* Sworn Officer/Deputy
* Marked/unmarked vehicle
* Uniformed/plain clothes
* Duties & assignments
* Partner/solo
* Location

Where you went and why you went there

* Dispatched/self-initiated

Information:

* Dispatched info
* Call details on screen
* Weapons reported
* Crime of violence

**Arrival:**

Observations:

* People / officers on scene.
* Activity occurring
* dangers to officers and people
* Buildings, vehicles
* Environmental factors: weather, lighting

What was happening when you arrived or first observed the subject(s)?

**Legal Authority / Lawful Purpose:**

Legal Authority to be in an area

* Public area
* Consent
* Warrant
* Exigency
* Community Caretaking

Lawful Purpose

* Probable Cause for arrest
* Terry Stop
* Social Contact
* Community Caretaking

Progression of Contact: Explain any change in your Legal Authority/Lawful Purpose during incident.

**Contact with Subject(s):**

How did you make your presence and authority clear?

* Verbal identification, commands or instructions

How did the subject indicate they knew you were the police?

Contact with involved subject(s)

* Observed Details
* Physical description
* Physical/verbal reaction to officer
* Tone of voice / statements made
* Posture / movement
* Subject’s size / strength vs. officer
* Intoxication / mental state

Information obtained from each subject

Was there a frisk of any subject?

* Reasons to believe subject was armed and presently dangerous
* Frisk Factors (Must be described in detail)

**Threat Assessment:**

Describe any threats posed to you, another person, or themselves

* by subject
* by environment

.

**De-Escalation:**

Verbal techniques

* Listen Explain Equity Dignity
* Who was communicating?
* Tone of voice
* Advisements and warnings
* Clear and simple instructions
* Persuasion and Agreements

Physical techniques

* Positioning
* Body language

Time, Distance, Shielding

* Were you able to slow or stabilize the evolution of the incident?
  + Pace Control
* Were you able to utilize distance to allow for more time
* Were you able to utilize cover and concealment

If De-escalation was not safe, feasible or effective: explain

Characteristics and Conditions Considered:

* children present
* elderly subject
* pregnant subject
* Language Barriers
* Mental, behavioral, physical, cognitive, perceptual impairments or disabilities

What efforts were made to mitigate these characteristics and conditions?

Did you request backup?

* Was backup available in a timely manner?

Did you need / request crisis-related resources?

* Were crisis-related resources available in a timely manner?

**Control (use of force)**

**Why was Force Necessary?**

Necessary: under the totality of the circumstances, a reasonably effective alternative to the use of

physical force or deadly force does not appear to exist, and the type and amount of physical force or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others.

**What was the Lawful Purpose for Force?**

Use of Physical Force Must Be for a Lawful Purpose.

An officer may use physical force against a person to the extent necessary to:

(a) Protect against an imminent threat of bodily injury to the officer, another person, or the person against whom physical force is being used

(b) Protect against a criminal offense when there is probable cause that the person has committed, is committing, or is about to commit the offense

(c) Effect an arrest

(d) Take a person into custody when authorized or directed by statute

(e) Prevent an escape as defined under chapter 9A.76 RCW

(f) Prevent a person from fleeing or stop a person who is actively fleeing a lawful temporary investigative detention, provided that the person has been given notice that he or she is being detained and is not free to leave

(g) Take a person into custody, transport a person for evaluation or treatment, or provide other assistance under chapter 10.77, 71.05, or 71.34 RCW

(h) Take a minor into protective custody when authorized or directed by statute

(i) Execute or enforce a court order authorizing or directing an officer to take a person into custody

(j) Execute a search warrant

(k) Execute or enforce an oral directive issued by a judicial officer in the courtroom or a written Model Use of Force Policy 8 order where the court expressly authorizes an officer to use physical force to execute or enforce the directive or order; or

(l) Execute any other community caretaking function, including but not limited to performing welfare checks, assisting other first responders and medical professionals, behavioral health professionals, social service providers, designated crisis responders, shelter or housing providers, or any member of the public.

**Elements of Control**

Notification of arrest

Words, Actions, Behaviors of subject that made force necessary

* Statements or Threats
* Body Posture
* Physical movements
* Access to weapons
* Resistance offered

Proportionality of force

* How did you **modulate** force in response to resistance

Explain **effectiveness or lack of effectiveness** of employed techniques

* Did the technique work?

**If effective**, describe assessment and modulation of force

* Describe control of or compliance of subject
* Explain choice of other force options

**If not effective**, describe assessment and modulation of force

* Were you able to apply the technique properly
* Did the suspect defeat or attempt to defeat the technique

Was this a trained technique?

* Where did you learn this technique?
* If not a trained technique; explain why it was used

**Restraint and Evaluation**

Handcuffs

* Gauged and Double-Locked

Hobble

Spit Guard

**Medical Evaluation:**

Injuries / Medical Aid to Subject

* Any complaint of pain, complaint of injury, apparent injury, or absence of injury to subject (before and after the force was used)
* Positioning of subject
* Monitoring of subject

Medical aid provided

* Who provided
* Where provided
* Treatment and/or Transport
* Refusal of medical aid by subject

Injuries to anyone else at scene

* Medical aid provided
* Who provided
* Where provided
* Treatment and/or Transport

Injuries to officers

* Medical aid provided
* Who provided
* Where provided
* Treatment and/or Transport

**Search:**

Items recovered

**Transport:**

How

* What vehicle
* Where in vehicle
* Position in vehicle
* Seatbelt or other restraints

Use of ICV or BWV

Advisements

* ICV or BWV
* Miranda

**Resolution:**

Summary of Investigation

Disposition of Subject

* No enforcement action
* Warning
* Cite and Release
* Arrest and booking
* Booking Decline
* Hospital
* Other Community Caretaking resolution
* ITA
* Charges / No charges requested

**Additional information:**

Anything Relevant to this incident but not covered above.

# Patrol Procedures Basic Concepts

**Supporting Concepts**

* **R**isks **A**nd **B**enefits **I**n **E**very **S**ituation
* TIME DISTANCE SHIELDING
* Environment dictates tactics
* PACE CONTROL
* Control hands
* **L**isten **E**xplain **E**quity **D**ignity

**cover**

Shielding

**connect**

Communicate with People

Maintain control

Emotional Intelligence

**escape**

Escape opportunities for you

Escape opportunities for suspect

**preflexFIRST**

**5 Principles**

Legal Authority

Threat Management

Position and Movement

Communication

Equipment Management

**breathe**

Pattern Breathing

Cleansing breaths

**scan**

Use all your senses

Take in information

**threat**

Identify threats

Identify threat zones

**position**

Distance (time)

Shielding

# Case Law and Resources

References and Citations drawn from :

[CONFESSIONS, SEARCH, SEIZURE, AND ARREST A GUIDE FOR POLICE OFFICERS AND PROSECUTORS MAY 2015](https://waprosecutors.org/wp-content/uploads/2019/04/May-2015-Final-Search-and-Seizure.pdf)

\*\*\*Note that this reference was last updated in 2015

Review [State v. Sum, 511 P. 3d 92 - Wash: Supreme Court 2022](https://scholar.google.com/scholar_case?case=16952705390336905217&hl=en&as_sdt=6,48)

* How did a consideration of race apply to this incident?

Review [State v. Boisselle, 448 P.3d 19, 194 Wash. 2d 1 (2019)](https://scholar.google.com/scholar_case?case=16568362579660317057&q=state+v.+boisselle&hl=en&as_sdt=6,48)

* How does this case relate to Community Caretaking?

Review [US v. Lopez, 482 F.3d 1067 (9th Cir. 2007).](https://scholar.google.com/scholar_case?case=10484280563094397755&q=us+v+lopez+482+F.3d+1067+(9th+Cir.+2007).&hl=en&as_sdt=6,48)

* How does this case relate to Probable Cause?

# Teaching points: Investigations

* preflexFIRST
  + Breathe, Scan, Threat, Position, Cover, Connect, Escape
* 5 Principles
  + Legal Authority
  + Threat Management
  + Position and Movement
  + Communication
  + Equipment Management
* Legal Authority
  + Social, RS, PC, Comm Care/Emergency
  + Consent, Warrant, Exigency, Comm Care/ Emergency
* Contact / Cover
* De-escalation
  + Time, Distance, Shielding
* Introduction and Identification of self
  + Set tone: Professional and in charge
* Scene control
  + People
  + Hands
  + Set Limits
  + Frisk people, if frisk factors
  + Protective sweep of immediate area and adjoining
* Communication
  + With partners
    - Roles and responsibilities
  + With people
    - **L**isten, **E**xplain, **E**quity, **D**ignity
    - Ask names
    - Ask questions
    - Build rapport
* Investigate and Identify
  + Obtain and check identifying information
  + Notebook: ID info and details
  + Verify warrants / Confirm court orders
  + Evidence
* Notify Suspect of arrest, if making arrest
* CREST model
  + Control, Restrain, Evaluate, Search, Transport
* Miranda
  + Custodial Interrogation
  + Juveniles must consult with attorney
* Evidence
* Statements
* Documentation

# Teaching points: Crisis

* 5 Principles
* Legal Authority
  + Community Caretaking
  + Potential Criminal Acts
* De-escalation
* Contact / Cover roles established
* Time / Distance / Shielding
* Communication / Rapport
  + Obtain name
  + Do not go immediately into “identification mode”
  + Do not immediately go through “ITA checklist”
* Assess situation
* Build rapport
  + ask person’s name
  + Do not **only** ask about 4 prongs
* 4 prongs
  + Danger to self
  + Danger to others
  + Danger to Property
  + Gravely disabled
* Determine if ITA prongs met
* Make appropriate determination
* Detain for ITA if prongs met
* Consider options for booking or ITA, if PC for crime
  + Consider alternatives to booking into jail
* Handcuff and Search if ITA or PC arrest is the resolution
* Provide resources, if no ITA
* Complete documentation and referrals

# Teaching Points: DV

* Contact / Cover
* Legal Authority
  + Consent for entry
  + Exigency
  + Community Caretaking
* Approach, Knock, Identify
* De-escalate
* Scene Control
  + Separate
  + Cuff and frisk (if necessary, not automatic)
* Story (interview each party)
* Start Writing (obtain and check information for each party)
  + Confirm any court orders/warrants
* Make determination regarding arrest
  + Mandatory elements
    - Crime
    - DV relationship
    - Within 4 hours
* Arrest suspect, if Probable Cause
  + CREST model
  + Search suspect
  + Mirandize suspect
* Medical aid
* Complete investigation and Provide Resources
  + Obtain victim/witness statements
  + Photographs and Evidence
  + Medical waiver
  + Provide DV resource pamphlet
  + Protection order information
  + Firearms / CPL (if PC crime has been committed)
    - Seize Firearms / Ammo used
    - Seize Firearms / Ammo in plain view or found during search
    - Request custody of Firearms / Ammo accessible to suspect
    - Inquire about Firearms / Ammo on-site
    - Inquire about Firearms / Ammo off-site
    - Inquire whether suspect has CPL
    - Document information
  + Offer transport or other assistance
* Complete documentation and referrals