

# WATERTOWN POLICE DEPARTMENT GENERAL ORDER



JOANNA W. VITEK  
CHIEF OF POLICE

Effective Date: December 1, 2009	Rescinds: Amends: C-100 (February 20, 2007)	Number: C-100
Subject: Response To Resistance		Re-evaluationDate: December 2012
Distribution: ALL PERSONNEL	Related CALEA Standards:	

This order consists of the following numbered sections:

1. Purpose
2. Policy
3. Definitions
4. Response to Resistance
5. Resistance Levels
6. Officer Control Levels
7. Response To Resistance Form
8. Responsibilities

## 1. PURPOSE

The purpose of this policy is to establish a Response to Resistance Continuum to assist all sworn officers in the proper response to resistance decision making, when to engage or disengage a person, and when to escalate or de-escalate the level of force applied.

## 2. POLICY

This policy establishes guidelines for both full-time and reserve-sworn personnel concerning Response to Resistance. The policy reflects department philosophy and established South Dakota Law Enforcement Training Standards. The intended use is a guideline for a patrol officer to select effective, reasonable and legal force options in a verbal or physical encounter.

## 3. DEFINITIONS:

- a. **DEADLY FORCE** – Force which is likely to cause death or great bodily harm. Use of deadly force must be based on the officer’s reasonable belief that all other response to resistance options is not feasible or have been exhausted and his/her life, the life of a fellow officer or another person is in imminent danger of death or great bodily harm.
- b. **GREAT BODILY HARM**- Any threat or action by its nature, that would likely cause permanent disfigurement and/or death.
- c. **LESS LETHAL IMPACT MUNITIONS** – Munitions that are fired, launched, or otherwise propelled with the purpose of compliance, overcoming resistance, or preventing serious injury, without a significant likelihood of causing death. Examples of less lethal impact projectiles include beanbags, launchable foam or rubber batons, rubber pellets, etc.
- d. **NON-DEADLY FORCE** - Force, which is neither likely nor intended to cause death or serious injury.
- e. **ONE-PLUS-ONE THEORY**- Advocates that an officer can use one level of force higher than the level of resistance used by the subject.
- f. **PHYSICAL FORCE** - Use of control holds and/or other force necessary to affect an arrest without the use of weapons.
- g. **REASONABLE BELIEF**- Knowledge sufficient for an ordinary and prudent person under the circumstances, to believe criminal activity is at hand or that a certain condition exists.
- h. **RESPONSE TO RESISTANCE/CONTROL CONTINUUM** - A SDLET approved guideline to aid the officer in proper response to resistance decision-making following the ONE-PLUS-ONE THEORY and also when to engage or disengage a person and when to escalate or de-escalate the level of force applied.
- i. **RESPONSE TO RESISTANCE FORM** - A form used to document details of any response to resistance.

## 4. RESPONSE TO RESISTANCE

- a. As a person increases his/her resistance level from verbal to physical, an officer may have to increase the level of his/her response until the resistance ceases and the officer is able to gain control of the person. As

- soon as the point of the person's compliance is reached, the officer must de-escalate his/her response level to the minimum force necessary to control the person and accomplish the law enforcement objective.
- b. Escalation and de-escalation of resistance levels and response levels may increase or decrease without going through intermediate levels (THE ONE-PLUS –ONE THEORY).
  - c. The only time an officer can reasonably escalate to the next level of force is when the officer finds lower levels of force ineffective, or reasonably believes that a lower form of force will be ineffective.
  - d. When responding to resistance officers should evaluate the options of escalating or disengaging and re-evaluating.
  - e. Person Factors - Must be considered when making response to resistance decisions, include:
    - i. Seriousness of crime committed by the person
    - ii. Size, age and weight of person
    - iii. Apparent physical ability of person
    - iv. Number of persons present who are involved or who may become involved
    - v. Weapons possessed by or available to the person
    - vi. Known history of violence by person
    - vii. Presence of innocent or potential victims in the area
    - viii. Whether the person can be recaptured at a later time
    - ix. Whether evidence is likely to be destroyed
  - f. Officer Factors - must be considered when making response to resistance decisions, include:
    - i. Size, physical ability and defensive tactics expertise of the officer
    - ii. Number of officers present or available
    - iii. Immediate reaction in the case of sudden attack
    - iv. Weapons or restraint devices available to the officer
    - v. Legal justification
    - vi. Department policy
    - vii. Environment

## 5. RESISTANCE LEVELS

- a. Psychological Intimidation - Nonverbal cues indicating subject's attitude, appearance and physical readiness. (Examples: Clenching of fists, tightening of jaw muscles, blank stare, Etc.) The subject may comply with verbal attempts at control, but displays nonverbal cues that indicate a potential for physical resistance.
- b. Verbal Noncompliance - Any verbal response indicating the subject's unwillingness to obey commands of detainment, arrest or to stop unlawful or dangerous behavior.
- c. Passive Resistance - Any type of resistance where the subject does not attempt to defeat the officer's attempt to touch or control him/her, but he/she will not voluntarily comply with verbal and physical attempts of control. (Officers are not required to choose the least intrusive control method, only a reasonable one.)
- d. Defensive Resistance - Any action by a subject that attempts to prevent an officer from gaining control of said subject. This is not an attack on an officer, but a physical act to prevent the officer from gaining control. Example would be a subject pulling away from an officer, or hooking arms with another individual.
- e. Active Aggression - Any physical actions/assaults against an officer or another person with less than deadly force.
- f. Deadly Force Assault - Any force used against an officer and/or another person that may result in great bodily harm or the loss of human life.

## 6. OFFICER CONTROL LEVELS

- a. Level 1 – Officer Presence: The identification of police officer's authority, either by the uniformed presence or the verbal identification of being a police officer.
- b. Level 2 – Verbal Direction: Commands of direction or arrest given to a person by the officer.
- c. Level 3 – Soft Empty Hand Control: Techniques used to gain control of a subject when verbal direction/commands are not effective and there is noncompliance with lawful orders. Examples: Strength Techniques, Joint Locks, Pressure Points. These techniques may cause pain to the subject but will generally not cause injury.
- d. Level 4 - Hard Empty Hand Control: Techniques used when softy empty hand control will not work against a subject. These techniques are strikes to a pressure point or a major nerve area and have a probability of injury to the subject. Also included in Level 4 is the use of department Approved Chemical Agent (OC Spray).
  - i. Pepper Aerosol Spray Procedures
    1. Authorization

- a. Only officers completing a prescribed course of instruction on the use of OC are authorized to carry/deploy it.
  - b. All authorized officers will carry only departmental issued OC canisters.
2. Usage
- a. OC is considered a use of force and will be considered as Officer Control Level 4.
  - b. Defensive resistance or active aggression shall be required or if the officer reasonably believes that a lower form of force will be ineffective.
  - c. OC shall never be used as a punitive measure.
  - d. Officers should never spray from a pressurized can directly into a subject eyes from a close distance due to the potential for eye injury as a result of the pressurized stream. Officers should never spray directly into the eyes from closer than three feet or the distance recommended by the manufacturer of the spray (Whichever is shorter) unless deadly force would be justified.
  - e. Officers should consider alternatives to chemical spray when attempting to control a subject in a crowded-enclosed area due to the innocent over-spray that may cause the onset of panic.
  - f. Officers should consider alternatives to chemical spray when the event is inside a building, particularly, where the building has a closed ventilation system due to the potential impact on innocent persons who may have to be evacuated (temporarily) from the locations.
  - g. Whenever possible, officer should issue a verbal warning prior to discharge of OC on a suspect.
  - h. Once a suspect is incapacitated or restrained, use of OC spray will not be justified.
  - i. For animal control as needed.
  - j. On duty Supervisor will be notified as soon as possible after discharge of OC.
3. Following Discharge
- a. Suspect should be handcuffed as soon as possible.
  - b. Suspect should be observed for any indications of medical problems and should receive medical attention if warranted:
    - i. Difficulty breathing
    - ii. Gagging
    - iii. Profuse sweating
    - iv. Loss of consciousness, Etc
  - c. Suspects that have been sprayed or exposed should be rinsed with water over the sprayed area upon arrival at the detention center, contaminated clothing and contacts, if used, should be removed.
4. Replacement
- a. OC spray devices shall be maintained in an operational state by assigned personnel.
  - b. After each use, canisters will be weighed and inspected and those that do not pass will be replaced.
  - c. Officers are responsible to notify supervisor of damaged, inoperative or empty canister for any maintenance or replacement issues as soon as such condition is identified.
- e. Level 5 - Intermediate Weapon Control: The use of any item or object that is not part of the human body to control resistance or an assault. The use of a weapon is justified when lower forms of empty hand control have failed or the officer believes that his/her skill in empty hand control will be insufficient, and the use of deadly force is not justified.
- i. Officers shall not intentionally strike a person in the head with an impact weapon unless deadly force would be justified.
  - ii. Less Lethal Impact Munitions
    - 1. Munitions
      - a. The 12 gauge drag stabilized beanbag round is a translucent 12 gauge shell travels at a velocity of approximately 280 feet per second.
      - b. Any other less-lethal extended range impact munitions authorized by the department.
      - c. Prior to deployment of any less-lethal weapon, officers must be trained and certified in the proper use of the weapon from both the technical and legal

aspects. All deployment must be consistent with departmental use of force training and policy.

## 2. Target Areas

- a. The Less-Lethal Extended Range Projectiles will be fired at suspect target areas based on circumstances, range to the target, and level of force authorized.
- b. The recommended firing distances and target points on the human body for the 12 gauge drag stabilized round are as follows:
  - i. \*Note – if the officer or public is at immediate risk and deadly force is authorized, intentionally shooting the suspect in the neck, head (which is considered deadly force) or any other place on the body would be authorized.
  - ii. 0-10 feet do not fire (See \*Note Above).
  - iii. 10-30 feet exercise caution and target only the lower extremities such as the buttocks, thighs, knees, and shins, or the arms and upper shoulder area only if the suspect's lower extremities are behind cover. (See \*Note Above)
  - iv. 30-60 feet shoot at upper abdomen or lower extremities such as the buttocks, thighs, knees, and shins, or the arms and upper shoulder area only if the suspect's lower extremities are behind cover. (See \*Note Above)
  - v. Beyond 60 feet (20 yards) energy or accuracy may not be sufficient for deployment.

## 3. Deployment Techniques

- a. The approved and specially marked with blaze orange stock and forearm, less-lethal shotgun will be carried with four less-lethal drag stabilized beanbag rounds in the magazine and four rounds in the attached carrier. The shotgun will be stored in a "cruiser ready" configuration. The approved shotgun will be packed in a black foam-lined case in the trunk of the patrol vehicle.
- b. The approved shotgun will be checked periodically or after deployment by a supervisor or armorer to ensure only less-lethal munitions are loaded in the weapon and are available for reload.
- c. When an officer determines a situation warrants the use of the less-lethal extended range impact projectile option, they will request one or more assisting officers to deploy the less lethal shotgun while they maintain surveillance and/or cover over the suspect.
  - i. Lethal cover shall always be used on suspects brandishing a firearm, edged weapon or an impact weapon.
  - ii. Before shooting a suspect with a less-lethal round the officer should consider the following: Distance to the suspect (energy accuracy), available target areas, clothing, bystanders and backstop.
  - iii. Statistics show suspects are rarely incapacitated by one impact from an extended range projectile. Most deployments may take more than one shot placed on a suspect to incapacitate them.
  - iv. The covering officer shall assess the status of the suspect after each shot is delivered and will direct the apprehension (handcuffing and searching) of the suspect upon incapacitation or compliance. Under no circumstances will less-lethal weapons be left unsecured during apprehension.

## 4. Handling of Injured Subjects

- a. Subjects that are struck with less-lethal extended range impact rounds shall be transported to a medical facility for examination.

## 5. Reporting

- a. Whenever an officer uses less-lethal extended range munitions on a suspect, a detailed report will be completed. The report should specify the action taken and be submitted to the officer's supervisor. It should be forwarded through the chain of command for review.
- b. Reports will include comments regarding inspection of the less-lethal weapons.

## 6. Training

- a. Training in the use of less-lethal extended range munitions will consist of the approved department program.

- f. Level 6 Deadly Force: The final option in the Resistance/Control Continuum to stop the threat and should only be used as a last resort following the strict guidelines imposed in the U.S. Supreme Court in Tennessee V. Garner, 471 U.S. 1 (1985). An officer may only use deadly force when that he/she reasonably believes that the deadly force is in defense of human life, including the officer's own life, fellow law enforcement officer, or in defense of any person in immediate danger of loss of life, or great bodily harm to any person. Deadly force includes:

- i. Techniques that are likely to result in death, great bodily harm or permanent disfigurement, such as use of their firearm or impact weapon strikes to the head.
  1. Use of firearms
    - a. Discharge of a firearm is authorized under the following circumstances:
      - i. When conducting authorized ballistics tests
      - ii. When engaged in shooting exhibitions as a representative of the agency
      - iii. At an authorized target range for practice or training purposes under the supervision of an authorized firearms instructor
      - iv. To kill a seriously wounded, nuisance or dangerous animal when necessary.
      - v. Where death or serious bodily injury is imminent to the officer or others
    - b. Discharge of firearms is not authorized under the following circumstances:
      - i. Warning shots
      - ii. Discharge of firearms is prohibited when the officer is presented with an unreasonable risk to innocent third parties.
      - iii. At a moving vehicle unless it is absolutely necessary to do so to protect against an imminent threat to the officer or others.
  2. Use of Restraints
    - a. When the need to physically restrain an individual arises, Officers shall not employ the method commonly known as "Hog Tying", where the feet and hands (behind the back) are bound, and then feet and hands are bound together behind the back.
    - b. The preferred method of restraining those individuals who have exhibited the need for additional restraint in addition to handcuffs shall be to also restrain the legs, and then securing a hobble or strap to the legs. This strap can then be secured in a door limiting the movement of the legs.
  3. The use of less-lethal extended range impact munitions is considered deadly force when intentionally deployed to the head or neck.

## 7. RESPONSE TO RESISTANCE FORM

- a. The Response to Resistance Form and case report will be completed for the following incidents:
  - i. Use of a Level 3 Response to Resistance, resulting in actual or claimed injury, whether evident or non-evident
  - ii. Use of any Level 4, or Level 5 Response to Resistance.
  - iii. Discharge of a firearm, excluding the killing of an animal such as a skunk, deer, etc.
  - iv. Use of a Level 6 (Deadly Force) Response to Resistance

## 8. RESPONSIBILITIES

- a. The officer will:
  - i. Provide for appropriate medical aid to include emergency medical services response after:
    1. The use of deadly force
    2. Use of less lethal force, whether injury is actual or claimed
    3. In the officer's opinion the force used was likely to cause injury, whether claimed or not
  - ii. Providing medical aid depending on severity of the apparent or claimed injury, may consist of but is not limited to the following:
    1. Increased observation of the suspect to detect changes in physical condition
    2. Applying first aid
    3. Flushing chemical agents from the suspect's face using water or approved neutralization products
    4. Evaluation by emergency medical personnel at the scene or in a suitable controlled environment
    5. In cases where the medical condition of a suspect is in doubt or undetermined, police department personnel will notify emergency medical personnel to assess the suspect.
  - iii. Complete report to his/her immediate supervisor prior to the end of the shift for response to resistance incidents.

- iv. When discharging a firearm for the purpose of killing a seriously wounded or injured animal, or a dangerous animal like a skunk, the officer will complete a “Weapons-Discharge” CAD entry through dispatch detailing the circumstances surrounding the incident.
- b. The immediate supervisor will:
  - i. Once notified of an incident in which an officer has been involved where a response to resistance form would be required, the supervisor will, if possible, respond to the scene to investigate the incident. The supervisor will accomplish the following investigative steps in conducting the investigation.
    - 1. Interview the involved subject if they are cooperative, to determine their account of the incident. If they have a complaint the supervisor shall complete a report.
    - 2. If a crime scene exists; or police equipment exists, which may contain forensic evidence, the supervisor shall ensure that the scene and evidence is processed, photographed and preserved.
    - 3. Take photographs of the involved officer(s) and subject(s) depicting any potential injuries or documenting the lack of any injuries to the parties involved.
    - 4. Interview, all witnesses to the incident and document their description of the event.
    - 5. Ensure that a qualified health care provider handles any injuries or other medical condition being experienced by the involved person.
    - 6. Review any video recording of the incident.
    - 7. Should the supervisor determine that unreasonable force was utilized; the Assistant Chief of Police or Chief of Police will be notified immediately.
  - ii. Complete the Response to Resistance Form and ensure all required written report(s) are properly completed and submitted by the officer before the end of the shift
    - 1. Review and complete the Response to Resistance Form
    - 2. Submit the Response to Resistance Form and reports to the Patrol Captain for review prior to the end of the shift.
  - iii. Ensure an Employee Injury Report is completed and a separate CR# is obtained (if applicable)
- c. The Patrol Captain will:
  - i. Review and complete his/her portion of the Response to Resistance Form
  - ii. Submit the Response to Resistance Form to the Assistant Chief for review
- d. The Assistant Chief will:
  - i. Review all forms and reports submitted under the requirements of this General Order
  - ii. Request additional information, if deemed necessary and appropriate
  - iii. Once the Assistant Chief has completed review, all reports and information will be forwarded back to Patrol Captain. Patrol Captain will serve as central repository for these documents.
- e. The Patrol Captain will:
  - i. Conduct a documented annual analysis of all Response to Resistance Reports. This report will be completed in July of each calendar and submitted to the Chief of Police. This documented analysis will provide the Chief with information to determine patterns/trends, training needs, equipment review and upgrade, and modifications to existing general orders.
- f. Administrative Assignment – An officer will be removed from their primary line duty assignment, and placed on administrative duty during the administrative review of the following incidents:
  - i. The officer’s response to resistance action results in the death or serious physical injury of a person.
  - ii. The officer is involved in traffic crash that results in or is likely to result in a fatality.
  - iii. An officer involved in a critical or traumatic incident that may impair his/her ability to perform their duties. In these cases, the determination of administrative assignment will be made by the Chief after evaluating the nature and scope of the incident
  - iv. The placement of an employee on administrative assignment is not considered to be punitive or disciplinary in nature, but is intended to protect the interests of the public, Police Department and the employee.

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JOANNA W. VITEK  
 Chief of Police  
 Watertown Police Department  
 Watertown, South Dakota