

**PROCEDURAL INSTRUCTION**

SUBJECT

Use of Force

AMENDS

REFERENCE

Procedural Instruction entitled, "Firearms Procedure"

RESCINDS

Procedural Instructions 05-2, 05-3, Department Memorandum 05-11, Training Bulletin 91-1

I. PURPOSE

To provide members with guidelines on the use of lethal force and less lethal force.

II. DEFINITIONS

- *A. **Agitated/Excited Delirium:** State of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, extreme tearing of the eyes, hostility, exceptional strength, and endurance without fatigue. Other signs or symptoms may include, but are not limited to, profuse sweating, foaming at the mouth, hallucinations, and exhibiting signs of a high body temperature.
- *B. **Air Cartridge:** A replaceable cartridge which uses compressed gases to fire two probes on connecting wires sending a high voltage/low current signal into a subject.
- *C. **Conducted Energy Device (CED):** A weapon primarily designed to disrupt a subject's central nervous system by means of deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.
- D. **Central Info Display (CID):** Display of data on the back of a CED.
- E. **Deploying Officer:** The officer who has control of and activates the CED.
- F. **Discharge:** Any firing of a CED at an animal or human being, even if the probes miss the intended target. For administrative tracking purposes a CED misfire will also be treated as a discharge.
- G. **DPM (Digital Power Magazine):** CED power source, which is housed in the base of the grip. It contains lithium energy cells and a digital memory chip, which records the date, time, length of activation, the temperature, and the percentage of battery life remaining in the DPM each time the CED is activated. The DPM will produce approximately 300 firings before requiring replacement.

- H. **Lethal Force:** Any use of force that is likely to cause death or serious bodily injury.
- I. **Less Lethal Force:** Any use of force other than that which is considered lethal.
- J. **Misfire:** When the CED is activated and the probes do not deploy or an electrical arc is not observed between the electrodes affixed to the front of the CED.

III. **POLICY**

This department recognizes and respects the value and special integrity of human life. In permitting members with lawful authority to use force to protect the public welfare, and for the apprehension and control of subjects, a careful balancing of all human interests is required. Therefore, it is the policy of this department that a member will use that force that is reasonably necessary to effectively bring an incident under control or apprehend a subject. Once a department member has a subject controlled, the continued use of force, to include the use of the CED, is prohibited. Members shall not engage in cruel, degrading, or inhuman treatment of any person.

IV. **PROCEDURE**

A. **General Guidelines**

- 1. A supervisor and a commander will respond to the scene when:
 - a. A CED is used.
 - b. An officer uses lethal force.
- 2. A supervisor will respond to the scene when:
 - a. A subject requires or requests medical treatment as the result of an officer using force.
 - b. An officer requires medical attention as a result of a subject using force.
 - c. A subject is rendered unconscious from the use of a Lateral Vascular Neck Restraint (LVNR).

3. The high vertical baton strike **is not** a department approved means of defense and subject control, except in situations where lethal force is objectively reasonable considering the totality of the circumstances. The high vertical baton strike target area is designated to be from the point of the shoulder inward to the base of the neck. Officers **are not** to strike anyone in the head with a weapon e.g., baton, shotgun, handgun, etc., in order to gain or maintain control or compliance, except in situations where lethal force is objectively reasonable considering the totality of the circumstances.
4. Once a subject is under control and handcuffed, to avoid the possibility of positional asphyxiation, place the subject on his/her side or in a seated position while awaiting transportation to a detention facility. **At no time will department members handcuff and leg shackle an arrest's hands and feet together (commonly referred to as hog tying).**
- *5. Department members **will** seek medical attention for persons exhibiting signs of agitated/excited delirium, as soon as circumstances allow. Additionally, they should monitor the subject for consciousness until medical assistance arrives.
6. Department members are cautioned **not to use** the LVNR on subjects sprayed with Oleoresin Capsicum, except in situations where lethal force is objectively reasonable considering the totality of the circumstances.
7. The aerosol chemical agent orthochlorobenzal-malononitrile (CS) is also available, but not listed on the Situational Force Options because its deployment is most often determined by extraordinary or command decisions.
- *8. Only a department issued CED (currently the Advanced Taser X-26®) will be carried. The CED will be carried on the non-gun side, in a department approved holster, with an air cartridge attached to the front of the CED and the safety engaged.
- *9. In any situation that results in an officer being disarmed of the CED, the officer will use that force necessary to defend himself/herself to avoid incapacitation and the risk of the possibility of the subject gaining control of the officer's firearm. When an officer is disarmed of the CED, guidelines set forth in the current written directive entitled, "Firearms Procedure," will be followed.

B. Guidelines for **LESS LETHAL FORCE**

1. Members will evaluate the situation to determine which available less lethal force technique or issued equipment should be used to control the situation without compromising their safety or the safety of others.
2. Members may use department approved less lethal force techniques and issued equipment to:
 - a. Effect an arrest.
 - b. Protect themselves and others from physical injury.
 - c. Restrain or subdue a resistant individual.
 - d. Bring an unlawful situation safely and effectively under control.
3. Following the use of less lethal force, immediate medical attention will be provided or obtained for any individual if deemed necessary by the officer or if requested by the individual.

C. Guidelines for **LETHAL FORCE**

Officers are authorized to use lethal force in order to:

1. Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily harm.
2. To prevent the escape of a person:
 - a. From the vicinity of a violent crime or confrontation during which that person is reasonably believed to have caused or attempted to cause death or serious bodily harm to the officer(s) or other persons, or
 - b. Who is reasonably believed to be armed and to have committed an offense in which he/she caused or attempted to cause death or serious bodily harm to another person, or
 - c. Who may otherwise endanger life or inflict other serious physical injury unless arrested without delay.

D. Situational Force Options

1. Mere police presence often avoids the need for any force.
2. **USE OF FORCE** - The officer's response options in each Force Level are not necessarily listed in the order of use, need, or preference. The option used will be left to the sound discretion of the officer based on the actions of the subject. All verbal identification and commands are used as appropriate and necessary by the officer.

- a. **LEVEL I - COMPLIANT** - The subject is cooperative but must be given verbal instructions/directions for compliance.

Officer Response Options:

- (1) Officer's presence
- (2) Verbal instructions/directions

- b. **LEVEL II – NON-COMPLIANT** - The subject is not controlled by verbal direction, but is not preventing the officer from taking control.

Officer response options are the same as with Level I – Compliant actions, with the following additions:

- (1) Empty hand restraint tactics.
- (2) Nerve Receptor Manipulation.
- (3) PR-24 baton draws (basic position or long extended position).
- (4) PR-24 baton armlock restraint tactics.
- (5) Oleoresin capsicum aerosol spray and/or pepper foam (MK-46 and MK-9 Pepper Foggers).

- c. **LEVEL III - ACTIVE RESISTANCE** - The subject actively resists arrest in a defensive manner by taking a defensive posture and/or indicating by their non-compliant words or actions that they will resist or are resisting arrest. *If the CED is used at this level, the officer is **required** to articulate in all reports the factors that justified its use, mere non-compliance would not be adequate.*

Officer response options are the same as with Level I – Compliant actions and II – Non-Compliant actions, with the following additions:

- (1) Lateral Vascular Neck Restraint (Level One or Two).
- (2) CED – Drive stun or probe deployment.

- d. **LEVEL IV - ACTIVE ASSAULTIVE RESISTANCE / NON-LIFE ENDANGERING ACTIONS** - The subject is aggressive in an offensive manner without weapons. The intent is to assault in a non-life threatening manner.

Officer response options are the same as with Level I – Compliant actions, II – Non-Compliant actions, and Level III – Active Resistance, with the following additions;

- (1) PR-24 baton blocks.
- (2) PR-24 baton chops, jabs, spins or strikes (consistent with the level of threat).
- (3) Lateral Vascular Neck Restraint (level one, two, or three).
- (4) Empty hand counter assault tactics (strikes with hands/arms/legs).
- (5) Escapes, throws, and ground tactics.
- (6) Shotgun as an impact weapon.
- (7) Beanbag round.

- e. **LEVEL V - ACTIVE ASSAULTIVE RESISTANCE/LIFE ENDANGERING ACTIONS** - The subject is aggressive in an offensive manner with or without weapons. The intent is to assault in a life-threatening manner.

Officer response options are the same as with Level I – Compliant actions, II – Non-Compliant actions, Level III – Active Resistance, and Level IV – Active Assaultive Resistance / Non-life Endangering Actions, with the following additions;

- (1) Firearm retention.
- (2) Edged weapon - defense/disarming.
- (3) Handgun.
- (4) Shotgun.
- (5) Rifle, when applicable.

*E. Post-Application Care of Less Lethal Force.

- 1. If a subject appears to be exhibiting signs of agitated/excited delirium members will:
 - a. Request Emergency Medical Services (EMS) personnel to respond to the scene.
 - b. Request a field supervisor to respond to the scene.
- 2. When a member uses the LVNR and the subject is rendered unconscious, the member will:
 - a. Call for EMS personnel to respond to the scene.
 - (1) Inform EMS personnel that the subject was rendered unconscious while the LVNR was being applied.
 - (2) Request EMS personnel to determine if the subject will be transported to a medical facility.
 - b. Request a field supervisor to respond to the scene.

- *3. When a member uses the CED the member will:
 - a. NOT ATTEMPT to remove probe if it is imbedded in the following areas of soft tissue: **face, neck, ear, breast, or groin**. In this instance, THE PROBE WILL BE REMOVED BY MEDICAL PERSONNEL ONLY.
 - b. Remove probes using current training guidelines.
 - c. Provide an antiseptic wipe and clean dry bandage to the person that has been subjected to the CED.
 - d. Request a field supervisor and commander to respond to the scene.
4. When a member uses Oleoresin capsicum aerosol spray and/or pepper foam (MK-46 and MK-9 Pepper Foggers) the member will:
 - a. Ensure the subject receives fresh air.
 - b. Rinse affected area with large amounts of cool water. Use soap and water if necessary.
 - c. Call for EMS personnel to respond to the scene if requested or appears necessary.
 - d. Request a field supervisor to respond to the scene.
- F. Response to Resistance, Form 246 P.D. - The utilization of wrist locks, empty hand tactics and handcuffing alone do not require the Response to Resistance, Form 246 P.D., to be completed. However, when these maneuvers are used in conjunction with the aforementioned documentable instances of use of force, a Response to Resistance, Form 246 P.D., will be completed. The wrist locks, empty hand tactics, and handcuffing should be noted by marking the "Other" box on the Response to Resistance, Form 246 P.D.
 1. The Response to Resistance, Form 246 P.D., will be completed by the member when they use:
 - a. Lethal force against a person.
 - b. A less lethal weapon i.e., capsicum, baton if used as an impact weapon, MK-46 & MK-9 Pepper Foggers, CED is used against a person including any air cartridge deployment or misfire intended to impact a subject.

- c. A LVNR.
 - d. Any force which causes injury that requires medical treatment.
 - e. A beanbag round discharged at a person. (A Discharge of Firearm, Form 101 P.D., will not be completed when a member deploys a beanbag round, only a Response to Resistance, Form 246 P.D., will be completed.)
2. The Response to Resistance, Form 246 P.D., will be completed when a **subject**:
- a. Uses force that results in injury to an officer that requires medical treatment.
 - b. Uses a less lethal weapon against an officer.
 - c. Uses force that causes the death of an officer.
3. The Response to Resistance, Form 246 P.D., will be completed for each incident described. A copy of all applicable reports, or the Detention Unit Incident Report, Form 5123 P.D., ***will be attached instead of rewriting the required narrative.*** If applicable, statements taken by the Violent Crimes Division detective ***may be attached at the discretion of a supervisor or commander to the Response to Resistance, Form 246 P.D., in place of completing the narrative section.*** (No reference to the Response to Resistance, Form 246 P.D., will be made in any case report.)
4. Should the member using force be injured and unable to complete the Response to Resistance, Form 246 P.D., the immediate supervisor will ensure the form is completed by another member.
5. A case report number will not be obtained for the Response to Resistance, Form 246 P.D., but the case report number of any other report taken in regard to the incident will be included in the appropriate space on the Response to Resistance, Form 246 P.D.
6. The Response to Resistance, Form 246 P.D., will be forwarded through the chain of command to the Bureau Commander. The Bureau Commander will forward the Response to Resistance, Form 246 P.D., directly to the Internal Affairs Unit with a copy also being forwarded to the Training Division. The Response to Resistance, Form 246 P.D., will **not** be sent to the Records Unit.

7. The Internal Affairs Unit will be responsible for filing the Response to Resistance, Forms 246 P.D.
 8. No information contained on the Response to Resistance, Form 246 P.D., will be released to persons or agencies outside the department without prior approval from the Chief of Police.
- G. CED Incident Log, Form 150 P.D. - Each CED activation will be recorded whether the activation was an actual deployment incident, maintenance test, show of force, or accidental deployment incident. One line will be completed for each activation incident. Several activations to control the same individual or animal will be entered on one line, with the number of activations noted in the appropriate column.

James D. Corwin
Chief of Police

Adopted by the Board of Police Commissioners on this _____ day of _____
2007.

James B. Wilson
President

DISTRIBUTION: Law Enforcement Personnel
Civilian Supervisory Positions
Department Element Manuals
Post on bulletin boards for two weeks.