

	KANSAS CITY MISSOURI POLICE DEPARTMENT	DATE OF ISSUE	EFFECTIVE DATE	NO.
	<b>PROCEDURAL INSTRUCTION</b>	1/27/2021	01/27/2021	21-01
SUBJECT			AMENDS	
Response to Resistance				
REFERENCE		RESCINDS		
Procedural Instruction entitled, "Firearms Procedures"		PI 16-04 DM-16-08		

## I. POLICY

- \*A. Force may be used only to the extent objectively reasonable to accomplish lawful outcomes. This Department and its members recognize and respect the value 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. When it is objectively reasonable that a subject is fully physically compliant and in law enforcement's control, the force must terminate.
- \*B. When safe and objectively reasonable, members will use de-escalation tactics to accomplish lawful outcomes. Members will assess the threat of a situation based on their knowledge and experience. The goal of de-escalation is to resolve an incident with the lowest potential of injury to the general public, law enforcement officers and suspects.

## II. TERMINOLOGY

- 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 probes on connecting wires sending a high voltage/low current signal into a subject.
- \*C. **Choke Hold:** A maneuver that deprives the lungs of oxygen by applying direct pressure, either from a body part or clothing, to the front of the subject's trachea or larynx.
- D. **Conducted Electrical Weapon (CEW):** 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.
- E. **Deadly Force:** Any use of force that is likely to cause death or serious physical injury.

- \*F. **De-escalation:** Proactive actions and approaches used to stabilize a situation so that members have time to disengage, re-evaluate a situation and assemble the proper resources, equipment and personnel to promote thoughtful resolutions to situations and to reduce the likelihood of harm to all persons. Such tactics may include: members making reasonable attempts to identify whether a person's lack of compliance is a deliberate attempt to resist rather than an inability to comply; verbal persuasion; warnings; tactical techniques; slowing down the pace of an incident; waiting out a subject; creating distance; and requesting additional resources.
- G. **Deploying Member:** The member who has control of and activates the CEW.
- H. **Discharge:** Any activation of a CEW at an animal or human being, even if the probes miss the intended target. For administrative tracking purposes a CEW misfire will also be treated as a discharge.
- \*I. **Front Neck Control (FNC):** A technique that restrains a front facing kneeling, bent at waist or prone resisting subject by controlling their head and neck. It differs from a choke hold in that it restricts the circulatory system while leaving the airway unobstructed and protected. The FNC level of control is based on the subject's resistance level and allows the officer to de-escalate at any time.
- \*J. **Lateral Vascular Neck Restraint® (LVNR):** A technique that restrains subjects by controlling their neck and limiting their movement. The LVNR® differs from a choke hold in that it restricts the circulatory system while leaving the airway unobstructed and protected. The LVNR® has three levels of control that can be increased or decreased based on the subject's resistance level and allows the officer to de-escalate at any time.
- K. **Misfire:** When the CEW is activated and the probes do not deploy or an electrical arc is not observed between the electrodes affixed to the front of the CEW.
- L. **Non-Deadly Force:** Any use of force other than that which is considered deadly.
- \*M. **Oleoresin Capsicum:** A chemical agent that irritates the eyes causing a burning sensation, pain, and impaired vision. (OC spray, MK9 and MK46 Fogger)
- \*N. **Orthochlorobenzal-Malononitrile (CS):** Is a particle that is typically dispersed in gas form that causes severe eye irritation, commonly known as tear gas.
- \*O. **Serious Physical Injury:** Physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

### III. PROCEDURE

#### A. General Guidelines

1. Members will clearly articulate the factor(s), fear(s) or concern(s) that prompted the force they chose to accomplish a lawful outcome.
- \*2. The Duty Commander will respond to any incident where use of force results in serious physical injury or death.
3. A supervisor and a commander will respond to the scene when:
  - a. A CEW is activated.
  - b. A member uses deadly force.
4. A supervisor will respond to the scene when:
  - a. A subject requires or requests medical treatment as the result of a Member using force.
  - b. A Member requires medical attention as a result of a subject using force.
  - c. A subject falls unconscious from the use of a Lateral Vascular Neck Restraint (LVNR®) or the Front Neck Control (FNC).
- \*5. Members **are not to** (except in situations where its use is objectively reasonable to prevent death or serious physical injury to the member or the general public):
  - a. Strike anyone in the head with a weapon, e.g., baton, shotgun, handgun, etc.
  - b. Use a choke hold to subdue a resisting person.
- \*6. Once a subject is under control and handcuffed, members will place the subject on his/her side or in a seated position while awaiting transportation to a detention facility. **Members will not handcuff and shackle an arrest's hands and feet together unless it is to prevent death or serious injury.**
7. 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.

8. Members are cautioned **not to use** the LVNR® on subjects sprayed with Oleoresin Capsicum, except in situations where its use is objectively reasonable considering the totality of the circumstances.
- \*9. The aerosol chemical agent orthochlorobenzal-malononitrile (CS) is available and its deployment is most often determined by extraordinary circumstances or command decisions. It may only be used by members who have been trained and with the approval of a commander/supervisor.
10. Only a Department issued CEW will be carried. The CEW will be carried on the non-gun side, in a Department issued/approved holster, with an air cartridge attached to the front of the CEW and the safety engaged.
11. In any situation that results in a member being disarmed of the CEW, the member will use reasonable force to defend themselves to avoid incapacitation and possibility of the subject gaining control of the member's firearm. For further information refer to guidelines set forth in the current written directive entitled, "Firearms Procedures."
12. Each month the Watch I Desk Sergeant at the Patrol Stations or Traffic Division and Special Operations Division will have all CEWs downloaded on the unit or division X26 Dataport. The first download of the CEW will require the time on the CEW and the time on the computer to be synchronized.

**B. Guidelines for NON-DEADLY FORCE**

- \*1. When members have determined that de-escalation tactics are ineffective, unreasonable or unsafe, members will evaluate the situation to determine which available non-deadly 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, or objectively reasonable non-deadly force techniques and issued equipment to:
  - a. Effect the arrest, restrain or subdue an actively resistant individual.
  - b. Protect themselves and others from physical injury.
  - c. Bring an unlawful situation safely and effectively under control.

- \*3. When safe and reasonable to do so, members should give subjects warning that less than lethal equipment will be used if the subject fails to comply (i.e., taser, OC spray, baton).
4. Following the use of non-deadly force, immediate medical attention will be provided or obtained for any individual if deemed necessary by the member or if requested by the individual.

C. Post-Application Care of Non-Deadly 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® or FNC and a subject falls unconscious, the member will:
  - a. Call for EMS personnel to respond to the scene.
    - (1) Inform EMS personnel that the subject fell unconscious while the LVNR® or FNC 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 CEW the member will:
  - a. **NOT ATTEMPT** to remove a probe if it is imbedded in the following areas of soft tissue: face, neck, ear, breast, or groin. In this instance, **THE PROBE SHOULD 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 CEW.
  - 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 the affected area with large amounts of cool water.
  - 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.

\*D. Guidelines for **DEADLY FORCE**

Members are authorized to use any deadly force in order to protect themselves or others from what they reasonably believe is an immediate threat of death or serious physical harm.

E. On-line Response to Resistance

1. The on-line Response to Resistance will be accessed from the intranet. A "User Guide for Response to Resistance Reporting" is available on the intranet.
- \*2. The on-line Response to Resistance will be completed for each incident described. When a report has been taken by a Department member or an outside agency no narrative will be completed on the on-line Response to Resistance. Members will refer to the case report number instead of rewriting or copying the narrative. No other report will be attached to the on-line Response to Resistance form. (No reference to the on-line Response to Resistance will be made in any case report.)
- \*3. The member or a supervisor will initiate the on-line Response to Resistance by the end of their tour of duty; however, the narrative must be completed within forty-eight (48) hours.
4. The utilization of wrist locks, empty hand tactics and handcuffing alone do not require the on-line Response to Resistance to be completed. The wrist locks, empty hand tactics, and handcuffing should be noted by marking the "Other" box on the on-line Response to Resistance when used in conjunction with the tactics outlined in this section.

- \*5. The member's on scene supervisor will complete the on-line Response to Resistance without a narrative, when:
  - a. A member discharges a firearm **at a person**, involving death, injury, or no injury.
  - \*b. A death or serious physical injury occurs as a result of any use of force.
  - \*c. Any other time a formal statement is taken from the member.
6. Should the member using force be injured and unable to complete the on-line Response to Resistance the immediate supervisor will ensure the form is completed.
7. The on-line Response to Resistance will be completed by the member when any attempt is made by the suspect to obtain the member's weapon, holstered or unholstered.
8. The on-line Response to Resistance will be completed by the member when they use:
  - a. A non-deadly weapon, i.e., capicum, baton if used as an impact weapon, MK-46 & MK-9 Pepper Foggers, CEW is used against a person including any air cartridge discharge, drive stun, or misfire intended to impact a subject.
  - b. A LVNR® or an FNC.
  - c. Any force which causes injury that requires medical treatment.
  - d. A beanbag round discharged at a person.
9. An on-line Response to Resistance will be completed by the member when a subject receives a canine bite as a result of an apprehension.
10. The on-line Response to Resistance will be completed when a subject:
  - a. Uses force that results in injury to a member that requires medical treatment.
  - b. Uses a weapon against a member regardless of injury.
  - c. Uses force that causes the death of a member.

11. A supervisor reserves the right to have a member complete an on-line Response to Resistance in any circumstance that, in the opinion of the supervisor, documentation would be reasonable.
12. In the event a case report number is not obtained in conjunction with the on-line Response to Resistance one will not be obtained for the sole purpose of completion. However, the case report number of any other report taken in regard to the incident will be included in the appropriate space on the on-line Response to Resistance.
- \*13. Each level within the chain of command will mark the appropriate box regarding whether the response to resistance was “in policy” or “out of policy” or “pending investigation” prior to submitting to the next level of command.
- \*14. The “Admin Action” check box is used when a report needs to be returned for further work or other administrative actions to facilitate the completion of the report. The “Admin Action” check box is not a policy recommendation and is not to be used by supervisors/commanders to circumvent the mandatory “in policy” and “out of policy” check boxes.
- \*15. When the member’s Bureau Commander determines the response to resistance was “out of policy” the on-line Response to Resistance will be routed back through the chain of command for appropriate corrective action.
- \*16. The on-line Response to Resistance will be reviewed and routed through the chain of command to the member’s Bureau Commander or designee within thirty (30) calendar days. The member’s Bureau Commander will review and close the report, with the exception of those pending criminal investigation.
- \*17. When a member initiates an on-line Response to Resistance but does not complete it within seven (7) calendar days, a tracked email reminder will be sent to that member. If no action is taken an email reminder will be sent every seven (7) calendar days until forwarding occurs. This will repeat at every level within the chain of command.
- \*18. If the member declines to provide a statement in a criminal investigation, the Chief of Police may initiate a Miscellaneous Investigation.
19. No information contained on the Response to Resistance will be released to persons or agencies outside the Department without prior approval from the Chief of Police, with the exception of cases presented to the prosecutor.



F. On-line CEW Incident Log, Form 150 P.D.

1. Each CEW activation will be recorded whether the activation was an actual deployment incident, maintenance test, show of force, or accidental deployment incident.
2. One line will be completed for each activation incident.
3. Multiple activations to control the same individual or animal will be entered on one line, with the number of activations noted in the appropriate column.



Richard C. Smith  
Chief of Police

Adopted by the Board of Police Commissioners this 12th day of January, 2021.



W. Don Wagner  
Board President

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