OVERLAND PARK POLICE DEPARTMENT
STANDARD OPERATING PROCEDURE

NUMBER: 2330
TOPIC: RESPONSE TO RESISTANCE
EFFECTIVE DATE: 01/11/2019
SUPERCEDES: 03/23/2018

SIGNATURE: */s/ Frank Donchez* **Chief of Police** */s/ Sonta Wilburn* **Bureau Commander**

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I. PURPOSE

The value of human life in our society is immeasurable. Police officers have been delegated the responsibility to protect life and property and to apprehend criminal offenders. The apprehension of criminal offenders and the duty to protect property and the responsibility to control and process persons in custody must at all times be subservient to the duty to protect life. An officer's responsibility for protecting life includes protecting his or her own life.

The purpose of this procedure is to protect the sanctity of human life while effectively enforcing the law, and it encompasses federal and state law on the subject of use of deadly force.

This procedure applies to all OPPD employees all commissioned OP Court Security officers, and all OPFD Fire Investigators certified by the Kansas State Fire Marshall. Unless otherwise identified herein, these individuals will collectively be referred to as "officers."

The Chief of Police, the Presiding Judge and the Fire Chief will ensure those officers under their respective authority and supervision will comply with the provisions of this procedure. Further, the Presiding Judge and Fire Chief will provide the Chief of Police with written verification that all officers under their supervision are complying with the provisions of this procedure, to include, but not be limited to training, conduct, supervision, and review of violations.

Legal duties and responsibilities are imposed upon officers as a means to maintain order in the City and society as a whole. Professional performance of these duties and responsibilities requires reasonable and impartial enforcement of laws and the protection of the legal rights of

all persons. When performing their official duties, it may be necessary for officers to respond to the resistance of a person by exerting force and control over citizens to protect life, to protect property, to affect arrests, to execute court orders, or to perform other lawful duties.

It is the Department's policy for officers, when performing their official duties, to only use the degree of control or force reasonably necessary to accomplish their lawful objectives, and officers will never use force which is excessive. Under this policy, an officer's response to resistance is deemed to be reasonably necessary when it reasonably appears they cannot safely accomplish their lawful objectives by use of a lesser level of force. 4.1.1

II. LEGAL AUTHORITY TO CARRY/USE WEAPONS

Kansas law enforcement officers, to include Overland Park Police Officers, derive their power to respond to resistance from a number of state laws; however, K.S.A. 21-5227 clearly defines the authority to carry and use weapons while performing their duties.

III. DEFINTIONS

Active Resistance: Resistance which is physical but not assaultive or threatening in nature. Examples would include clinging to objects, pulling away or running away.

AFID: Anti-Felon Identification tags located within the department issued air cartridges.

Aggressive Resistance: Resisting an officer in the lawful performance of his/her duty by threatening or assaultive behavior toward the officer or others.

Conducted Electrical Weapon *(CEW)*: A non-deadly device issued by the Department, used to incapacitate an individual by discharging an electronic current causing Electro-Muscular Disruption (EMD) or to invoke a pain compliance response by discharging an electronic current to a localized area.

Custodial: defined as a person(s) who is under arrest, in police protective custody, or being involuntarily committed.

Conducted Electrical Weapon Cycle: One trigger press and release with a five (5) second deployment in either "Drive Stun" or "Probe" mode.

Excessive Force: Force that is greater than reasonably necessary.

"Felony Involving Great Bodily Harm": Is a felony involving actual or threatened infliction of Great Bodily Harm.

Great Bodily Harm: Injury that creates a substantial risk of death or causes serious permanent disfigurement, or results in long term loss or impairment of the functioning of any bodily member or organ. The term "Great Bodily Harm" is synonymous with terms Serious Bodily Injury, Great Bodily Injury, Serious Physical Injury, and Serious Physical Harm.

Deadly Force: Force which causes death or great bodily injury or which creates a degree of risk a reasonable person would consider likely to cause death or great bodily injury and will be synonymous with Deadly Force.

Medical Only: Resistance which is physical and related to a medical condition only and not related to any type of arrest. The subject does not have the inherent ability to control their physical actions due to a medical condition.

Non-Deadly Force: Force not intended to cause death or Great Bodily Harm.

Non-Resistance: When no resistance occurs and precautionary force and verbal directions are given to seek compliance from a person to safely accomplish a lawful objective.

Officer-Involved Shooting: The intentional or unintentional discharge of a firearm by an officer, either as a participant or victim, in which a person is injured or killed, or the potential exists for criminal charges to be filed as a result of the discharge, such as aggravated assault. This would include shooting incidents that occur while an officer is Off-Duty.

Passive Resistance: Non-compliance with a lawful order of an officer including the person who remains limp, utilizes their own dead weight, remains in a prone position, or who expresses mere verbal disagreement not threatening to an officer or others.

Physical Control Methods: use of pain compliance techniques, joint or wrist locks, escort techniques, muscling/wrestling and pulling/pushing.

Police Service Dog (PSD): PSD engagement is defined as a bite.

Precautionary Force or Show of Force: Exhibiting or pointing a firearm, OC spray, ASP baton, extended range impact weapon, CEW to include the use of the "red dot", or the use of a police canine, while giving verbal directions and seeking compliance from a person to safely accomplish a lawful objective.

Reasonably Necessary Force: Force an officer reasonably believes to be necessary to safely accomplish a lawful objective. It may only be used to the extent reasonably necessary in light of the circumstances confronting the officer. Reasonableness is determined by the officer's view of the facts and circumstances based on their personal observations or facts and circumstances using reliable information, which would lead the officer to believe that a lesser degree of force would not safely accomplish the lawful objective.

Restraining Force: Is force which is necessary to overcome a person's resistance to lawful arrest or to perform any other official duty.

Spark Test: A non-contact demonstration of the CEW's ability to discharge electricity. This is conducted only when the cartridge has been removed from the device.

"Use of a Deadly Weapon": Is the actual or threatened use of a deadly weapon.

WRAP: is considered a safe restraint system designed to prevent death or injuries.

IV. PROCEDURE 4.1.4

A. NON-DEADLY FORCE

The amount and level of non-deadly force used must be reasonable. A determination of reasonableness should be based on an assessment of the factors present, including but not

limited to:

- The seriousness and nature of the offense
- The suspect's physical ability, mental competence and degree of resistance or violence toward the officer or others.
- Is physical control of a person is immediately necessary
- Can the situation be defused and handled without force
- Will the use of force escalate violence or create unreasonable risk of injury to the officer or other persons.

Non-deadly force may be used to:

- Protect the officer or another person from bodily harm
- Prevent persons from injuring themselves
- Effect and safely maintain lawful investigative stops, arrests and searches
- Overcome resistance to such stops; arrests or searches; and, to prevent escapes from custody
- Provide necessary control over persons in custody

Non-Deadly Force Techniques

Departmentally trained and authorized non-deadly force techniques are:

- Conducted Electrical Weapon (CEW)
- Oleoresin Capsicum (OC) Spray & powder
- Physical Control Methods – as defined
- (PPCT) defensive counter strikes
- Krav Maga
- ASP Baton
- Noise Flash Diversion Devices (NFDD)
- Engagement of a Police Service Dog
- Extended range impact weapon

Conducted Electrical Weapon (CEW)

The CEW will be carried in an approved holster on the officer's support side only, in "probe mode." Only Department approved and issued air cartridges will be used in the CEW. Only officers who have completed the annual departmentally approved training will be issued and allowed to use a CEW.

The CEW will not be used in potentially flammable or explosive environments; i.e. after an alcohol based OC spray exposure. Officer(s) will not use the CEW on a prisoner in a departmentally approved restraint device, unless he/she is an immediate threat to themselves or others.

The CEW will only be used to:

- Protect the officer or another person from bodily harm
- Prevent a person from injuring him or herself
- Overcoming aggressive resistance to lawful investigative stops, arrests or searches
- Stop a vicious animal that presents a danger to the officer or public.

If practicable and does not put others at risk, officers should warn the person and other officers at the scene of the intended use of the CEW. No more than one officer at a time should intentionally activate a CEW against a person.

Officer(s) will evaluate a person's compliance after each CEW activation against him/her prior to additional activations. Officer(s) will not exceed combined activations of three (3) cycles in either "probe" or "drive stun" modes.

Officers are cautioned that there may be limitations on the effectiveness of the CEW and be prepared to transition to a different force option.

Pre-Deployment Procedure

Officers will conduct a daily “spark test” prior to the start of his/her work assignment to verify proper device operation. No additional “spark test” will be conducted without supervisory approval. Officers should conduct the “spark test” in front of his/her patrol car, weather permitting, during the initial vehicle video equipment check.

Post Deployment Procedures

It will be the officer's responsibility to ensure all post-deployment procedures are completed. Officers will monitor the affected person for breathing irregularities, level of consciousness and compliance. The person will be taken to the hospital. If officers reasonably believe the person upon whom the CEW was used exhibits any sign of medical distress, or is in need of medical treatment, aid will be rendered and emergency medical personnel will be called to the scene. 4.1.5

The person’s medical condition will determine whether he/she will be transported by ambulance or by an officer to a medical facility.

Officer(s) will not refuse medical treatment for anyone who requests it.

A medical release form by the hospital is not required to lodge in the county jail as long as the information is verbally passed onto the county jail.

If the CEW is deployed by an Overland Park Court security officer he/she will contact OPPD Dispatch and request a police officer and police supervisor respond to the scene.

Oleoresin Capsicum (OC) Spray

If an officer is confronted by a person brandishing OC, MACE, CN, CS spray, etc. the officer will consider the totality of circumstances and use a level of force reasonably necessary to accomplish lawful objectives. Deadly Force can only be used in accordance with this policy.

If practicable, officers should warn the person and other officers of the intended use of the OC spray. Officers need to be aware there may be limitations on the effectiveness of OC and be prepared to transition to a different force option.

OC will not be used on a person who shows "passive resistance" to an officer or in the following situations:

- In a setting where panic could reasonably result
- When a risk of unreasonable injury to the person is created, such as temporarily blinding a person walking near oncoming traffic.

- On a prisoner in a departmentally approved restraint device, unless they pose an immediate threat to themselves or others.

Post Deployment Procedures

Officers will frequently check the exposed person for indications of medical problems, until the person is released from the officer's custody. Officers will call for emergency medical assistance if any of the following is observed:

- Any unusual breathing difficulty
- Persistent gagging
- Loss of consciousness
- Profuse sweating
- Any other indication the person is in need of immediate medical care
- If the person requests medical assistance
- If the officer believes the affected person ingested OC spray into their mouth. 4.1.5

Officers will not refuse medical treatment for anyone who requests it.

Officer(s) will make notification verbally and in writing using the *Release Form* Attachment A when the exposed person is released to another law enforcement agency or other responsible person. If the arrested person is to be incarcerated in a facility, like the county jail, the officer will make verbal notification and present written authorization that the person may be incarcerated.

Additional Non-Deadly Use Of Force Techniques

Physical control methods, PPCT, Krav Maga, the ASP baton and Noise Flash Diversion Devices (NFDD) are authorized as non-deadly uses of force by officers who have received departmental training in such tactics. The techniques must be used pursuant to the training standards and in compliance with this policy. Appropriate aid must be rendered to those that are injured from the use of these techniques. 4.1.5

Only Department-issued and approved defensive instruments may be carried. Officers using instruments must have received Department-approved training and qualification, unless use of other tactics and/or instruments is reasonably necessary to protect the officer or third person from imminent injury or death.

A police service dog (PSD) engagement is considered a non-deadly use of force.

"*Hog-Tying*": or any technique requiring the connecting of feet and hands while the hands are behind a person's back is specifically prohibited.

Extended Range Impact Weapon

The extended range impact weapon is a shotgun and discharges non deadly munitions. It is intended to incapacitate an individual for a brief time in order for the person to be safely taken into custody or to prevent the person from causing great bodily harm to himself/herself or others.

Only departmentally-approved issued weapons and ammunition will be used, and only by trained or authorized officers, who have demonstrated proficiency in the use of the weapon.

Use of the extended range impact weapon will be applied according to the manufacturer's instructions and in conformity with training provided by the Department.

The extended range impact weapon may be used when it is objectively reasonable to:

- Control a person who is armed with a deadly weapon and is threatening suicide.
- Control a person who is about to commit suicide or inflict serious bodily injury upon himself. Disarm or disable a subject who is armed with a deadly weapon and is engaging in illegal or dangerous behavior.
- Prevent injuries to police or citizens or to prevent large-scale property destruction in crowd control or riot conditions.
- Control a violent subject or a subject threatening imminent violence.

Post Deployment Procedures

Once the scene is secured, persons who have been subjected to an extended range impact weapon will be transported to the nearest medical facility as soon as practical. Officers will monitor the affected person for breathing irregularities, level of consciousness and compliance. The person's medical condition will determine whether they are transported by ambulance or by an officer to the medical facility.

B. USE OF DEADLY FORCE 4.1.2

An officer may use deadly force only when the officer reasonably believes that the action is in defense of any human life in imminent danger of death or serious bodily injury.

Justification for the use of deadly force will be limited to the facts and circumstances known or perceived by the officer at the time the decision is made. Facts unknown to the officer will not be considered in later determinations.

Deadly force will be used only for the purpose of incapacitating a suspect. When using a firearm, officers will shoot at center-body mass for maximum incapacitating effectiveness and minimized danger to others. An officer may shoot at other than center-body mass if tactical considerations such as the taking of a hostage dictate otherwise, and it is necessary to protect the officer or others from serious bodily injury or death.

Prohibited Use of Deadly Force

Officers will not:

- Use deadly force to effect the arrest or prevent the escape of an unarmed, non-dangerous, fleeing felon.
- Discharge a firearm when it appears likely an innocent person may be injured, unless such discharge is immediately necessary to protect the officer or other person from imminent death or great bodily harm.
- Discharge a firearm at or from a moving vehicle except in self defense or defense of another and when the suspect is using deadly force by a means other than the vehicle unless; a reasonable officer could infer the vehicle is operated in a manner deliberately intended to strike an officer or citizen and all other reasonable means of defense (including moving out of the path of the vehicle), have been exhausted, are not practical or are not present; and the safety of innocent persons would not be unduly jeopardized by the employee's action.
- Fire warning shots. 4.1.3

C. ADMINISTRATIVE REPORTING REQUIREMENTS 4.2.1 (B)(C)(D)

The following on-duty incidents will require a Response to Resistance administrative investigative report "Long Form":

- Deadly force
- Use of extended range impact weapon
- Use of defensive instruments (Baton, OC, CEW)
- Use of PPCT defensive counter strikes or Krav Maga
- Any employee action or application of force involving death, injury or claim of injury

**Supervisors involved in the above situations will not handle the RTR administrative investigative report. Their supervisor or another field supervisor will handle the administrative investigation.*

The incidents below require a RTR administrative "Short Form" report:

- Physical Control Methods – as defined
- Precautionary or show of force with firearm, defensive instrument or use of police service dog.

Supervisor Duties

Supervisors will respond to the scene if the incident involves:

- Deadly force
- Use of extended range impact weapon
- Use of defensive instrument (Baton, OC, CEW, engagement of PSD)
- Use of PPCT defensive counter-strikes or Krav Maga
- Injury or claim of injury

Supervisors of TFOs will communicate with the TFO to determine if a response to the scene is necessary.

- Complete an administrative investigative RTR report (short or long form)
- Conduct a thorough investigation
- Download data, ensure AFID collection and proper packaging in the event of an ECD deployment
- Communicate to the Division Commander any policy concerns created by the response to resistance incident.

D. REVIEWING REPORTS 4.2.2, 4.2.3

The response to resistance "long form" report will be forwarded through the Chain of Command to the Division Commander as soon as possible. Certain circumstances may dictate a shorter or extended deadline for completion as determined by the section manager or shift Watch Commander.

The section manager or shift Watch Commander will review the response to resistance incident and all related reports to determine if the incident was in compliance with policy. If it is determined to be within policy, the RTR will be closed within 30 days of the incident.

Any violations of policy will require a documented recommendation of discipline to be reviewed by the member's section manager or shift Watch Commander. Recommended

discipline that includes suspensions must be reviewed by the Division Commander. Outside of special circumstances, determined by the Division Commander, recommended discipline will be reviewed and served within 14 days of the incident's date.

The Chief of Police, or designee, will place any employee, whose action(s) or use of force in an official capacity results in death or serious physical injury on paid, administrative leave or assign him/her to other administrative duties pending an administrative review. If the employee is placed on administrative leave, the Chief of Police or designee should assign a Department representative to check the employee's welfare daily and identify any needed assistance or resources.

Early Warning Intervention

Early warning reports will be evaluated by the Internal Affairs Section, concerns will be forwarded to the officer's chain of command for review.

E. FIREARMS DISCHARGE OR USE OF DEADLY FORCE 1.3.6(A), 4.2.1(A)

The following procedures will be implemented when an officer uses deadly force which injures a person, or when an officer discharges a firearm for other than target practice, hunting, ballistics examinations or destroying an animal.

After an officer uses deadly force or discharges a firearm either intentionally or unintentionally, when the situation permits and there is a reasonable belief it is safe to do so, the officer will:

- Check the physical condition of any injured person, render first aid when appropriate and request necessary emergency medical aid. 4.1.5
- Report the incident to a supervisor
- Notify police dispatchers about the incident and location
- Protect his/her weapon for later examination. Do not load or unload the weapon used in the discharge and surrender said weapon to an appropriate Investigator.
- Prepare a detailed report of the incident as directed by a supervisor or an OISIT Remain available at all times for official interviews and statements regarding the case.

Upon notification of a firearms discharge, or potential officer involved shooting, dispatchers will send medical aid to the scene and notify the Watch Commander, or designee of the incident. Dispatchers will make other notifications as directed by the Watch Commander, or designee.

Upon notification of a firearm discharge, or a potential officer involved shooting, the Watch Commander, or a designee, will:

- Ensure the scene is secured and protected.
- Notify the Division Commander, ensure the Chief of Police and appropriate Bureau Commanders are notified.

The Chief of Police or Bureau Commander will assign the Division Commanders to take charge of and conduct a preliminary investigation of the incident.

In situations involving personal injuries or possible criminal charges, the Division Commander will consult with the Chief of Police or appropriate Bureau Commander to determine the need to activate the JO CO DA's OISIT.

Board of Review

The purpose of the board of review is to aid continuing evaluation of policy, procedure and training.

A board of review will not be convened until the District Attorney is presented with a pending criminal file and determines no charges will be filed or rules there is no criminal liability; or until the internal administrative investigation has been completed.

Issue and Training of Written Directive 4.3.4

Prior to being authorized to carry lethal and less lethal weapons, all Members are required to read, review and receive instruction on the most current version of this written directive, SOP 2330, *Response to Resistance* which is stored in the Department's electronic, written directive's system.

After reading, reviewing and receiving instruction, Members are required to electronically sign acknowledgement of receipt and instruction of this written directive. All OPPD written directives are loaded into the electronic written directives system, and electronic signatures are tracked and maintained in the same system. Members are encouraged to frequently review this written directive either on the written directives system, or may print a copy.

Origin Date: 01/18/2008
Revision Date: 08/04/2008
Revision Date: 09/09/2009
Revision Date: 03/31/2014
Revision Date: 08/31/2016
Revision Date: 01/11/2019

CALEA references:
4.1.1
4.1.2
4.1.3
4.1.4
4.1.5
4.2.1(A)(B)(C)(D)
4.2.2
4.3.4
4.2.3

ATTACHMENT A

Case Number: _____

OVERLAND PARK POLICE DEPARTMENT
SIGNATURE PAGE ATTACHMENT

Medical Information and Consent

1. Are you presently ill or injured? _____ If so, state the nature of illness(es)/injury (ies) _____.
2. Are you taking medication? _____. If so, list the medication(s) and the prescribing doctor's name(s):
   _____
3. When and why were you last treated or seen by a doctor?
   _____

I understand that emergency medical and dental treatment is available while I am being detained by the Overland Park Police Department. If I should require emergency treatment, I hereby consent to such treatment at a medical facility designated by the City of Overland Park.

Consenting Person's Signature: _____ Printed Name: _____

Witnessing Officer's Signature: _____

Custody Release Form

I hereby assume responsibility for _____ and agree to transport him/her directly home.

☐ _____ has been exposed to an Electronic Control Device.

Receiving Person's Signature: _____ Date: _____

Receiving Person's Printed Name: _____ Telephone No:_____

Address: _____ Witnessing Officer's Signature: _____

Health Hazards for OC Spray

Signs & Symptoms of Exposure:	Ingredients cause irritation through all routes of entry. Repeated contact may cause Dermatitis. Ingestion may cause nausea, vomiting and/or diarrhea.
Medical Conditions Generally Aggravated by Exposure:	May cause more severe, temporary, effects on those persons who are asthmatics or suffer from emphysema.
Emergency and First Aid Procedures:	Provide fresh air, irrigate with copious amounts of cool water. Obtain medical advice if symptoms persist.
Routes of Entry:	1. *Inhalation* - Provide fresh air. 2. *Eyes* - Irrigate with cool water at least 15 minutes, or until relieved. 3. *Skin* - Flush with cool water. Wash with mild soap and water. 4. *Ingestion* - Rinse with water. Ingest milk or water. Obtain medical advice immediately.

Case Number: _____

Person Exposed to OC Spray: _____

OVERLAND PARK POLICE DEPARTMENT
SIGNATURE PAGE ATTACHMENT

Vehicle Liability and Tow Waiver

Vehicle Description: Color: _____ Year: _____ Make: _____ Model:_____Style: _____

License Number: _____ State: _____ Year: _____

Vehicle Condition: _____ Vehicle Location: _____

The above-described vehicle has been left at the above-listed location with my permission. By signing this form, I am releasing the City of Overland Park, Kansas, its Officers and employees from any and all claims of liability, including, but not limited to, theft or damage to the above-listed vehicle and/or any contents contained therein.

Signature: _____ Date: _____

Witnessing Officer's Signature: _____

Missing Persons Attachment

Missing Person's Name: _____

Reporting Person's Name: _____

My signature verifies I have reported the above-listed person as a missing person to the Overland Park Police Department

Reporting Person's Signature: _____ Date: _____

SUPERVISOR GUIDELINES FOR AIM REPORTING

RESPONSE TO RESISTANCE (SHORT FORM):

- Only used for Precautionary Force and Physical Control Incidents
- Complete all applicable windows (check boxes)
- Enter the names and information of the involved officer(s), individual(s) and witnesses, if available or known
- No narrative is required for the Response to Resistance Short Form
- Attach I/Leads PDF report/or TFO memo.
- No other attachments are required (i.e. witness statements, recordings etc.)

Tracking:

- When finished, the supervisor will check the appropriate box for their recommendation.
- The supervisor will track the response to resistance report to the supervisor's section manager or shift Watch Commander within three days.
- If a policy violation is noted follow the investigative and tracking guidelines of the Long form.

RESPONSE TO RESISTANCE (LONG FORM):

- Use for all other Response to Resistance incidents
- Complete all applicable windows
- Enter the names and personal data of those involved officer(s), individuals and witnesses, if available or known
- Include one summary of the investigation/incident under the notes section.

Summarize (within the notes section):

- Core transaction
- A summary description of what each officer did during the response to resistance. (It is not necessary to document a summary under each officer's individual note section.)
- Audio and video availability along with the times in order to assist with the review
- Note of verbal or written witness statements
- Supervisor opinion of policy compliance

Exhibits:

- Attach PDF I/Leads report
- Attach available witness statements to the AIM report not Share Point

Tracking:

- When finished, the supervisor will check the appropriate box for their recommendation and track the report.
- The supervisor will track the response to resistance report to the supervisor's section manager or shift Watch Commander within three days. (Although certain circumstances may dictate a shorter deadline for completion as determined by the section manager or shift Watch Commander.).
- If the supervisor's section manager or shift Watch Commander is on extended leave, track the report to the on duty section manager or shift Watch Commander.
- Within five scheduled working days the section manager or shift Watch Commander will review the response to resistance incident and all related reports to determine if the incident was in compliance with policy.

"No Policy Violation" - The response to resistance will be closed.

"Policy Violation" - Any violations of policy will require a documented recommendation of discipline to be reviewed by the member's section manager or shift Watch Commander.

Recommended discipline. Outside of special circumstances, determined by the Division Commander, recommended discipline will be reviewed and served within 14 days of the incident's date.