

	<p style="text-align: center;">HOLLYWOOD POLICE DEPARTMENT</p>	<p style="text-align: center;">SOP #200</p>
<p style="text-align: center;">RESPONSE TO RESISTANCE</p>		
<p>ORIGINATION DATE: 06/15/2001</p>		<p>REVISED DATE: 07/01/2016</p>
<p>APPROVED: CHIEF OF POLICE, CHRIS O' BRIEN </p>		

PURPOSE: The Department has reviewed Federal and State Laws, Court decisions, and reviewed current standards to develop a comprehensive Response to Resistance SOP. This SOP will guide members through their decision making process involving Subject Resistance Levels and the appropriate Officer Response to Resistance Options.

SCOPE: This SOP applies to all members of the Department.

POLICY: It is the Department’s responsibility to provide supervision, training and guidance in the use of force to ensure reasonable and prudent decisions are made. The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and preserve the integrity of the Police Department and the City of Hollywood.

It is the Department’s policy that an Officer will use only the level of force, which is objectively reasonable and necessary to bring an incident under control, while protecting the lives of the Officer and others.

NOTE “This Directive is for Department use only and does not apply to any criminal or civil proceeding. The Department SOP should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims”.

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PROCEDURE:

The use of force is governed by case law interpreting the US Constitution, Chapter 776 of the Florida Statutes, and the Department Policies and Procedures for the Hollywood Police Department.

I. FLORIDA STATUTES GOVERNING ‘USE OF FORCE’

The Police receive legal authority to use force, to include deadly force, from the following State Laws:

A. “Use of Force” to Protect Others:

FSS 776.012 provides justification for:

1. A person to use “force, except deadly force, to the extent that the person reasonably believes that such conduct is necessary to defend themselves or others against an offender’s imminent use of unlawful force.”
2. The use of **deadly** force is only justified “when a person reasonably believes that such force is necessary to prevent;”
 - a. “Death or great bodily harm to themselves or another”, or
 - b. “To prevent the imminent commission of a forcible felony.”

B. “Law Enforcement Officers; Use of Force in Making an Arrest:”

FSS 776.05, provides that “a Law Enforcement Officer, or any person he has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest.”

The Statute authorizes that “a Law Enforcement Officer is justified in the use of any force:”

1. “Which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest;”
2. “When necessarily committed in retaking felons who have escaped”, or
3. “When necessarily committed in arresting felons fleeing from justice“.
4. However, the use of **deadly** force when arresting felons fleeing from justice is justified only when:
 - a. “Some warning has been given”, and:

- b. “The Officer reasonably believes such force is necessary, **and** the fleeing felon:
 - (1). Poses a threat of death or serious bodily injury to the Officer or others, or
 - (2). The “fleeing felon” has committed a crime involving the infliction or threatened infliction of serious bodily injury to another person.”

C. Legal Authority for Members to Carry and Use Deadly and Non-Deadly Weapons or Firearms while on or Off-Duty:

Members authorized to carry firearms or weapons and use deadly or non-deadly force, will do so in accordance with State Statutes and the Department’s Standard Operating Procedures. These directives provide legal authority for members to carry and use deadly or non-deadly weapons and firearms while on or off-duty.

II. CONSTITUTIONAL RESTRICTIONS

Despite the powers granted to Police Officers by existing Laws or Department Policies to use force, the application of Police force can not infringe upon those rights granted to each person by the Constitution.

Any infringement upon a person’s constitutional rights can be remedied against a member, his employers or governing jurisdictions by criminal prosecution under Title 18 U.S.C.241 or 242 or by civil remedies under Title 42 U.S.C. 1983 regardless of the outcome of a State’s proceedings.

III. DEPARTMENT “RESPONSE TO RESISTANCE” SOP

The primary duty of all Officers of the Department is to preserve human life.

Duty to Intervene: All Officers at the scene of a police incident have an obligation to ensure the requirements of the law and the Department policies and procedures are complied with. Officers are required to maintain control or intervene if the use of force against a subject clearly becomes excessive. Failure to do so may result in both criminal and civil liability. A description of all situations wherein the use of force, whether non-deadly or deadly force, would be justified is not feasible. Therefore, it is the Department’s policy that an Officer can only use the force option that is objectively reasonable to bring a subject under control.

A. Objective Reasonableness:

It is the duty of individual Officers to determine the appropriate level of force based upon facts and circumstances of each situation. In *Graham v. Conner*, 490 U.S. 386 (1989), the United States–Supreme Court held that law enforcement use of force cases are to be judged by an **objective reasonableness** standard based upon the Fourth Amendment. The use of force is to be judged from the perspective of a reasonable Officer under the same circumstances without the benefit of hindsight. The Court clearly considered that Officers are often required to make split-second, sometimes deadly decisions, in circumstances that are “tense, uncertain, and rapidly evolving.”

Objective reasonableness requires the Officer’s action to be reasonable and necessary. The Court concluded the objective reasonableness test is not a precise or clear rule but requires careful review of the facts and circumstances of each case, including the severity of the crime, whether the suspect posed an immediate threat to the safety of Officers or others, and whether the suspect was actively resisting arrest or attempting to evade arrest by flight.

B. Use of Non-Deadly Force:

Members will only use the Response to Resistance Option that is objectively reasonable to:

- 1. De-escalate the incident and bring it under control.
- 2. Make a lawful arrest.
- 3. Defend or protect themselves or others.

C. Use of Deadly Force:

Deadly force is force which is likely to cause death or great bodily harm. The use of Deadly Force must follow current State Law and Department Policies and Procedures.

Deadly Force may be an officer's first and only appropriate response to a perceived threat. As long as the officer's decision to use deadly force as a defensive tactic was based on:

1. A clear, reasonable belief that he, a fellow officer or another person, faces imminent danger of death or great bodily harm.

"When feasible, an Officer should identify himself through command presence and verbal communication ex: **"Stop-Police"**, before the application of any Response to Resistance Options".

D. Totality of the Circumstances:

Totality of circumstances refers to all facts and circumstances known to the Officer or reasonably perceived by the Officer as the basis for a use of force decision.

IV. DEADLY FORCE TRAINING

Before a member is authorized to carry an approved firearm or weapon, or is placed into a position where he or she may use deadly force, or encounter a "fleeing felon," the member will:

A. Be Issued a Copy of the Use of Force SOP:

The member will be issued the Use of Force SOP as part of the Department's Operations Manual.

B. Receive Instruction in the Use of Force, Deadly Force, Non-Lethal Force, and Fleeing Felons:

The member will receive training from the Department's Training and Professional Development Unit as part of their field training assignment.

C. Qualify with the Department's Primary Handgun:

The member will demonstrate proficiency with the Primary Handgun with a minimum live fire range score of 80% of 100%. Upon qualification, FDLE 86 A form is completed and submitted for data entry. A copy of the form is placed in the Officer's Training Personnel file.

D. Demonstrate Proficiency with Special Impact Weapons, Chemical Agents and Electronic Control Devices:

All members will demonstrate proficiency with any special impact weapons, chemical agents or electronic control devices that he carries.

V. DEADLY FORCE RESTRICTIONS

Members may encounter situations in which lethal force may be justified, but other circumstances are also present which makes the use of deadly force extremely hazardous or ineffective.

The following will be adhered to unless exigent circumstances exist which would prevent compliance:

A. Identification as a Police Officer:

Before discharging a firearm, a member will, when practical, verbalize a warning, which identifies him as a Police Officer coupled with a verbal command to desist, such as "Police-Stop or I'll Shoot".

B. Danger to Bystanders:

Members must always consider target identification, what is between their weapon and the intended target, and what is beyond the target. The potential for "Cross-fire" with other members or striking bystanders is an unacceptable risk taken to apprehend an offender.

C. Warning Shots:

In any environment, there is a high probability of bullets ricocheting or hitting an innocent bystander. Therefore, the firing of a warning shot is prohibited even when the use of deadly force is justified.

D. Shooting at or from a Moving Vehicle or Vessel:

Although the use of deadly force may be justified for the occupant within a vehicle/vessel, most conventional Police firearms and ammunition are incapable of penetrating automobile bodies, steel belted tires or angled safety glass from any distance except at very close range.

In addition, the increased speed, the unpredictable movement of a vehicle/vessel, instability of a shooting platform, lack of training, and the increased risk to bystanders decreases the accuracy and effectiveness of striking the intended target.

“Members must understand that firing into a moving vehicle will most likely not stop the momentum of the vehicle. Members must also take into consideration the final rest of the vehicle and the potential harm it may cause to public safety”.

Therefore:

1. Members will avoid placing themselves in a position (while on foot or within their Police vehicle) where a vehicle moving towards them would be considered a threat of deadly force against the member.
2. Members will not shoot at or from a moving vehicle unless all of the following provisions exist;
 - a. Deadly force is being used against the member or another;
 - b. The member cannot initiate evasive action and has no alternative but to use his firearm to end the threat; and,
 - c. The discharge will not endanger the lives of innocent people.

VI. ESCALATION, DE-ESCALATION, AND DISENGAGEMENT

Use of Force decisions may escalate and de-escalate rapidly in relation to the perceived threat. An officer's goal is to achieve subject compliance. **Compliance** is the verbal and/or physical yielding to an officer's authority without apparent threat of resistance or violence.

Escalation, de-escalation, and disengagement are important concepts in making legally and tactically sound, reasonable responses to resistance. **Escalation** is the increasing use of force or resistance. **De-escalation** is decreasing the use of force or resistance. **Disengagement** is discontinuing a command or physical use of force, for example, by breaking away from a subject. Officers are legally permitted to escalate their use of force as the subject escalates his or her level of resistance. The officer's choices are determined by the subject's actions and the risk of physical harm posed to the officer or others. Once the officer achieves control or compliance, he or she must de-escalate the use of force.

Under certain circumstances, disengagement may be the best tactical option, for example, when the officer is waiting for backup, when the officer is injured or outnumbered, or when the suspect has superior firepower.

VII. FORCE GUIDELINES

The Force Guidelines provide a framework for making decisions involving the reasonable use of force by Law Enforcement officers. The structure of the Force Guidelines is based on constitutional considerations and case law and describes the appropriate decision making in a fluid and dynamic situation. The Guidelines consider the relationship between subject resistance and various situational factors in determining the officer's response options.

A. Subject Resistance Levels:

Members may encounter the following levels of resistance:

1. **Passive Resistance:** A subject's verbal and/or physical refusal to comply with an officer's lawful direction causing the officer to use physical techniques to establish control.

Some examples of passive resistance include the following:

- a. The subject refuses to move at the officer's request
 - b. The subject peacefully protests at a political event in a public location and refuses to move when told.
 - c. The subject refuses to take his hands out of his pockets or from behind his back.
2. **Active Resistance:** A subject's use of physically evasive movements directed toward the officer such as bracing, tensing, pushing and pulling to prevent the officer from establishing control over the subject.

Some examples of active resistance include the following:

- a. The subject physically anchors himself to a person or object to prevent him from being removed.
 - b. The subject braces or pulls away from the officer when the officer grips the subject's arm or torso.
 - c. The subject attempts to run when the officer touches or attempts to grab the subject's arm or torso.
3. **Aggressive Resistance:** The subject engages in attacking movements toward an officer which may cause injury but are not likely to cause death or great bodily harm to the officer or others.

Some examples of aggressive resistance include the following:

- a. The subject balls up his fist and approaches the officer.
 - b. The subject pushes the officer away as the officer tries to take the subject into custody.
 - c. The subject grabs any part of the officer's body.
4. **Deadly Force Resistance:** The subject makes overt, hostile, attacking movements with or without a weapon, which creates a reasonable perception by the officer that the subject intends and has the apparent ability to cause death, great bodily harm or incapacitation to the member or others.

Some examples of deadly force resistance include the following:

- a. A subject refuses to drop a knife when ordered to by the officer and moves toward the officer
- b. A subject shoots or points a gun at an officer or other person.

B. Officer Response Options:

Officers should try to resolve a situation with the least amount of force necessary. Command presence and verbal communication often will defuse many volatile situations. Sometimes, however, these are not enough or officers may not have an opportunity to use these options. An officer may have to use physical force to gain control of the situation. Physical force includes physical control, the use of Non-lethal weapons, and deadly force. Officers need not apply force in gradually increasing steps in order to justify physical control or even deadly force. Instead, officers need to respond with the amount of the force reasonably necessary for the circumstances they encounter.

1. **Physical Control:** achieving compliance or custody through the use of empty-hand or leverage-enhanced techniques such as:

- a. **Restraint Devices: Tools** used to restrain a subject's movement and facilitate searching or to gain control to arrest, some examples are: handcuffs, leg irons, flex cuffs, nylon restraints or hobbles.
 - b. **Transporters:** Pain compliance, mechanical compliance, and/or joint manipulation techniques which can be used to control and/or move a subject with minimal chance of injury, to include: mere guiding and holding, wrist locks, thumb locks, come along holds, arm bars and, shoulder locks and grabs which gain and retain control over a subject.
 - c. **Pressure Points:** Techniques used to control resistant behavior by using pain compliance. Pressure or leverage is applied using a fingertip or thumb tip to target a nerve joint or sensitive area causing pain and compliance to verbal direction. Some examples are: the hollow area behind the ear, under the jaw, side of the neck, hollow area behind the collar bone, hollow area of the neck and under the nose.
 - d. **Take Downs:** Techniques used to bring a resisting subject from a standing position to the ground making it easier to control the subject. After a takedown an officer may escalate, de-escalate, or disengage depending on the assessment of the situation. Some examples are: straight arm takedown, hammer lock takedown, shoulder lock takedown, inside wrist takedown, leg sweeps and hip tosses.
 - e. **Striking techniques:** These empty hand impact techniques using arms, hands, elbows, feet, legs, knees, and head to strike a subject in an offensive or defensive situation. This could include punching, kneeling, kicking, slapping. Some strikes may be used as distraction techniques. A distraction is a technique that interrupts the subject's concentration so energy is redirected from their current focus. Any strike can be used in certain situations as a distraction technique.
2. **Non-lethal weapons:** A weapon which is not fundamentally designed to cause death or great bodily harm. Some examples of Non-lethal weapons include electronic control devices (ECD), dart-firing stun guns such as a TASER, expandable batons, flashlights, and chemical agent sprays. These tools include:
- a. Department authorized Non-lethal weapons, such as:
 - (1). Baton, utilized by Field Force Unit only;
 - (2). Expandable Baton;
 - (3). Electronic Control Device (Tasers);
 - (4). Certified Canine;
 - (5). Special Impact Munitions:
 - (a). The authorized impact deployment weapon for members is the orange colored Remington, 870-pump action shotgun.
 - (b). The munitions authorized for members are Defense Technologies Drag Stabilized 12-gauge Beanbag Rounds.
3. **Deadly Force:** Force which is likely to cause death or great bodily harm. Some examples of deadly force include:
- a. Use of a firearm
 - b. Eye gouges
 - c. Empty-hand strikes to the throat
 - d. Impact-weapon strikes to the side of the neck.

VIII. FACTORS FOR DECIDING THE USE OF FORCE

The Department examines reasonableness using *Graham v. Connor* and from the articulated facts from the perspective of the Officer with similar training and experience placed in generally the same set of circumstances.

Members are to use the totality of circumstances and “force that is objectively reasonable” to effectively bring an incident under control, to make arrests and protect the lives of the members and/or others.

A. CRITERIA FOR MAKING DEADLY FORCE DECISIONS:

1. **Ability:** Refers to the subject having the means to carry out his or her intent to cause death or great bodily harm. An officer must determine whether the subject has the necessary means to cause death or great bodily harm to the officer or others. A weapon is not required; a subject must only have the apparent ability to carry out his or her intention. If the subject seems physically able to cause death or great bodily harm, then the subject has the ability.
2. **Opportunity:** Means the subject is capable of acting on a plan to cause death or great bodily harm to the officer or others. The subject’s weapon often determines opportunity. For example, a subject with a knife may not be an immediate threat to an officer standing far away. However, the same person standing closer or carrying a firearm certainly has the opportunity to carry out his/her intent to cause death or great bodily harm.
3. **Intent:** Is a reasonably perceived, imminent threat to an officer or another person based on the subject’s actions, behaviors, words, or other indicators. It is a perception derived from the totality of the circumstances.

Officers should use the amount of force necessary and reasonable for the situation. If ability, opportunity, and intent are present and the officer cannot control the threat using lesser means, then deadly force is justified. When resistance de-escalates, so must the officer’s response.

IX. TOTALITY OF CIRCUMSTANCES

Totality of circumstances is a term used to refer to all facts and circumstances known to the officer at the time, or reasonably perceived by the officer as basis for a use of force decision. This will be viewed in the totality of circumstances in determining whether the decision was objectively reasonable and therefore, legally justified. The totality of circumstances includes consideration of the subject’s form of resistance, all reasonably perceived situational factors which may have an effect on the situation, and the response options available to the officer.

A. Situational Factors to Consider:

1. **Subject factors:**
 - (a). Seriousness of the crime committed by the subject.
 - (b). Immediacy of the threat
 - (c). Size, age, weight, behavior or demeanor.
 - (d). Apparent or stated physical ability.
 - (e). Number of people involved or who may become involved.
 - (f). Weapons possessed, available or believed to be possessed.
 - (g). Known history of violence.
 - (h). Whether physical evidence is likely to be destroyed.
 - (i). Presence of innocent victims.
 - (j). Subject’s combative actions and abilities.
 - (k). Innocent bystanders who could be harmed

(l). Duration of the confrontation

2. Member factors:

(a). Size, physical ability, and defensive tactics expertise.

(b). Number of members present or available to assist.

(c). Immediate reactive response to sudden attack.

(d). Weapons or restraint devices available.

(e). Legal requirements.

(f). Department SOP Guidelines.

3. Miscellaneous Factors:

(a). Environmental factors, such as physical terrain, weather conditions, etc.

(b). Presence of other persons.

(c). Proximity of subject to Officer and others.

(d). Non-criminal nature of incident (Baker Act, Marchman Act, or mentally handicapped individual).

X. DEADLY FORCE INCIDENTS INVOLVING ANIMALS (ALSO SEE RESPONSE TO RESISTANCE REPORTING PROCEDURES, FIREARM DISCHARGE REPORTS)

A. Vicious or Dangerous Animals:

Members may encounter situations requiring the use of lethal force on a vicious or dangerous animal. In such situations, members will ensure all reasonable efforts to contain the animal have failed and the animal poses a serious health or safety risk to others if allowed to escape.

B. Seriously Injured Animal:

Members will only contact Broward County Animal Control to respond to render assistance to an injured animal.

1. Members will not send, or cause to be sent, any injured animal to any private animal hospital or private animal rescue/medical facility.

2. Members will not use a firearm or any weapon to prevent the continued suffering of a seriously injured animal.

3. This section does not apply to Hollywood Police Department work dogs. Accidents and/or injury to an HPD canine (K-9) will be governed by the Canine Division SOP.

C. Notification:

If a member uses lethal force on an animal:

1. A Supervisor will respond to the scene.

2. The Supervisor will ensure the Shift Lieutenant is notified.

XI. DEFINITIONS:

A. ABILITY:

A subject having the means to carry out his or her intent to cause death or great bodily harm.

B. ACTIVE RESISTANCE:

A subject's use of physically evasive movements directed toward the officer such as bracing, tensing, pushing or pulling to prevent the officer from establishing control over the subject.

C. ACCIDENTAL DISCHARGE:

Any unexpected or unintentional expulsion of a projectile from any firearm. Exceptions include firearm training, firearm practice, recreational activities, and legally sanctioned hunting.

D. AGGRESSIVE RESISTANCE:

A subject's attacking movements toward an officer which may cause injury but are not likely to cause death or great bodily harm to the officer or others.

E. COMMISSION:

The Criminal Justice Standards and Training Commission of the Florida Department of Law Enforcement.

F. COMPLIANCE:

The verbal and / or physical yielding to an officer's authority without apparent threat of resistance or violence.

G. DE-ESCALATION:

Decreasing the use of force or resistance.

H. DEADLY FORCE:

Force which is likely to cause death or great bodily harm.

I. DEADLY FORCE RESISTANCE:

A subject's hostile, attacking movements with or without a weapon which create a reasonable perception by the officer that the subject intends to cause and has the capability of causing death or great bodily harm to the officer or others.

J. DISENGAGEMENT:

Discontinuing a command or physical use of force.

K. ELECTRONIC CONTROL DEVICE:

A weapon that uses electricity to override voluntary motor responses, or apply pain in order to gain compliance or overcome resistance.

L. ESCALATION:

Increasing the use of force or resistance.

M. FORCE GUIDELINES:

A framework for making decisions involving the reasonable use of force by Law Enforcement Officers.

N. FORCIBLE FELONY:

Treason, murder; manslaughter; sexual battery, car-jacking, home-invasion robbery, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, and any other felony which involves the use or threat of physical force or violence against an individual.

O. GREAT BODILY HARM:

A bodily injury which creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of a limb, function or organ.

P. IMMINENT DANGER:

Danger impending, or about to occur, absence the intervention of law enforcement officer(s).

Q. INTENT:

A reasonably perceived, imminent threat to an officer or another person based on the subject's actions, behaviors, words or other indicators.

R. NON-DEADLY FORCE:

Defensive or controlling action which neither is likely nor intended to cause death, great bodily harm, or serious bodily injury.

S. NON-LETHAL WEAPON:

A weapon which is not fundamentally designed to cause death or great bodily harm.

T. OBJECTIVE REASONABLENESS:

The process for evaluating the appropriateness of an officer's response to a subject's resistance.

U. OFFICER INVOLVED SHOOTING:

The purposeful or accidental discharge of a firearm by a member.

V. OPPORTUNITY:

A subject is capable of acting on a plan to cause death or great bodily harm to the officer or others.

W. PASSIVE RESISTANCE:

A subject's verbal and / or physical refusal to comply with an officer's lawful direction causing the officer to use physical techniques to establish control.

X. PHYSICAL CONTROL:

Achieving compliance or custody through the use of empty-hand or leverage-enhanced techniques, such as pain compliance, transporters, restraint devices, takedowns and striking techniques.

Y. PROBABLE CAUSE:

Circumstances within one's own knowledge and experience which is rational, trustworthy and supported by articulated facts to lead a reasonable and prudent man to conclude the information is true.

Z. SERIOUS BODILY INJURY:

See "Great Bodily Harm".

AA. TOTALITY OF THE CIRCUMSTANCES:

Totality of circumstances refers to all facts and circumstances known to the Officer at the time or reasonably perceived by the Officer as the basis for a use of force decision.

BB. USE OF FORCE:

A defensive or controlling response by an Officer to overcome a person's threatened or actual physical resistance to an Officer's performance of legal duty; to protect an Officer or another person from physical resistance or acts of aggression which are likely to cause harm.

ATTACHMENTS:

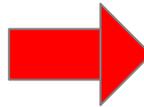
- **Appendix A:** Force Guidelines-Decision Making Process

Force Guidelines

The Decision Making Process

Subject Resistance

- Is the subject verbally or physically resisting my lawful authority ?
- Is the subject making attacking movements that **are not** likely to cause death or great bodily harm ?
- Is the subject making attacking movements that **are** likely to cause death or great bodily harm ?



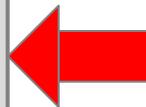
Situational Factors

- What subject factors influence this situation ? Weapon ? Physical size ? Demeanor ? Others ?
- What officer factors influence this situation ? Training ? Experience ? Physical size ? Others ?
- What environmental factors influence this situation ? Weather ? Location ? Presence of others ?



Justification

- Were my actions reasonable based on the subjects resistance and the totality of the circumstances ?
- Am I able to articulate the reasons for my actions ?
- Was I in compliance with constitutional and state laws, agency policy and training ?



Officer's Response

- Can I physically control the subject ?
- Could I use a non-lethal weapon not meant to cause death or great bodily harm ?
- Is deadly force the appropriate option to prevent death or great bodily harm to myself or others ?