



POLICE DEPARTMENT GENERAL ORDER

Subject: Response to Resistance

Order No: 201

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201 Policy

- A. It is the policy of the Agency to act within the scope and guidelines of the Florida Statutes and current case law regarding the use of force. Officers and Desk Booking Specialists, (DBS), will use only that force required to accomplish lawful objectives. This policy will define circumstances under which the use of lethal and less-lethal force by officers and DBS is permissible. **FSS 776.05**
- B. Escalation, de-escalation, and disengagement are important concepts in making legally and tactically sound, reasonable responses to resistance. 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. Officers and DBS will use the **Force Guidelines** when considering response to resistance options.
- C. The amount of force, the continued use of any force, and the type of equipment utilized all depends upon the situation being faced by the Officer at the time. Once a subject is securely in custody, the Officer shall immediately de-escalate and address any injuries the suspect or others may have sustained.
- D. Any member who uses physical force as defined herein will immediately notify the on-duty supervisor without unnecessary delay.

201.1 Definitions

- A. **Deadly Force** - The term "deadly force" means force that is likely to cause death or great bodily harm and includes, but is **not** limited to:
1. The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm;
- OR**
2. The firing of a firearm at a vehicle in which the person to be arrested is riding. **FSS 776.06**
 - Some examples of deadly force include use of a firearm, eye gouges, empty-hand strikes to the throat, and impact-weapon strikes to the side of the neck.
 - Use of deadly force may be an officer's first and only appropriate response to a perceived threat.
 - Deadly force does not necessarily mean that someone died from the force used.
 - It can cause great bodily harm or no harm at all.
 - For example, returning fire is deadly force even if the officer misses the target.
 - The officer must base his or her decision to use deadly force as a defensive tactic on a clear, reasonable belief that he or she, a fellow officer, or another person, faces imminent danger of death or great bodily harm.

- B. **Compliance** - is the verbal or physical yielding to an officer's authority without apparent threat of resistance or violence.
- C. **De-escalation** - is decreasing the use of force or resistance.
- D. **Disengagement** - is discontinuing a command or physical use of force, for example, by breaking away from a subject.
- E. **Electro-muscular Disruption Devices (Advanced Taser)** - is a conducted energy device which projects two probes or acts as a touch stun device and delivers an electrical signal to cause muscle motor and sensory skill dysfunction. It is intended to temporarily incapacitate a subject with a minimal potential for causing death or great bodily harm.
- F. **Escalation** - is increasing the use of force or resistance.
- G. **Implement of Force** - is any mechanical, chemical, electronic or manual device or technique applied to a person to be taken into custody with intent to gain compliance, affect arrest, protect life or property or stop the commission of a violent felony.
- H. **Kinetic Energy Impact Projectiles and Grenades** - are flexible or non-flexible projectiles intended to incapacitate a subject but having minimal potential for causing death or great bodily harm when compared to conventional projectiles.
- I. **Less-Lethal Force** - is a quality or quantity of force which is neither likely nor intended to cause death or great bodily harm. The term "deadly force" does not include the discharge of a firearm by a law enforcement officer or DBS during and within the scope of his or her official duties which is loaded with a less-lethal munition. As used in this subsection, the term "less-lethal munition" means a projectile that is designed to stun, temporarily incapacitate, or cause temporary discomfort to a person without penetrating the person's body. A law enforcement officer or a DBS is not liable in any civil or criminal action arising out of the use of any less-lethal munition in good faith during and within the scope of his or her official duties **FSS 776.06**. Officers and DBS will only utilize implements of force for which they have been trained except as provided in 201.3A6.
- J. **Less-Lethal Force Philosophy** - is a concept of planning and force application that meets operational objectives with less potential for causing death or great bodily harm than conventional police tactics.
- K. **Nonlethal weapon** - is an implement that is not fundamentally designed to cause death or great bodily harm. Some examples of nonlethal weapons include electronic control devices (ECD), dart firing stun guns, such as a TASER®, expandable batons, flashlights, and chemical agent sprays.
- L. **Physical control** - is 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.
- M. **Preliminary Administrative Review** - A documented determination by the Chief of Police or designee regarding the actions and/or fitness for duty of a member based on information available at the time. This is antecedent to a complete investigation and is in no way to be construed as a final determination of the facts of the incident.

- N. **Violent Felony** - is murder, armed robbery, armed sexual battery, kidnapping, carjacking by use of a deadly weapon, burglary to an occupied structure when the officer has **probable cause** to believe the suspect is armed with a deadly weapon, arson, use or discharge of an explosive device or firearm in or about an occupied structure, or any other felony involving the use, or threatened use, of deadly force.
- O. **Excessive (Unreasonable) Use of Force** – When the Use of Force exceed the minimum amount necessary to diffuse an incident or to protect themselves or others from harm.

201.1 Authority

- A. **Florida State Statute Chapter 776** - This statute outlines the conditions under which law enforcement officers, corrections certified personnel and citizens may legally use force in the State of Florida. In general, the Department's policy regarding the use of force requires members to employ the amount of force reasonable to protect life and property or to make a lawful arrest.
- B. **Copy of Policy** - Every member authorized to carry lethal and non-lethal force weapons will be issued a copy of, and be instructed in, the application of this directive prior to being authorized to carry or deploy any implement of force.
- C. **Approved Implements and Training** - Only implements of force (nonlethal weapons) and response to resistance techniques instructed and authorized by the Agency may be carried or utilized, on and off duty, consistent with current and approved Agency training. Members will demonstrate proficiency with each implement of force prior to carrying or deploying the implement.
- D. **Review and Approval Process** - The Training Section will designate a lead Use of Force Instructor who will be responsible for review and approval recommendations for all implements of force used by authorized Agency members. The Chief of Police will have sole authority to approve or disapprove an implement of force, (weapon).
- E. **Last Resort** - Nothing in this policy prohibits the use of an implement of opportunity and/or unconventional technique as a last resort to protect an officer's or DBS's life, or the life of another, in dire circumstances.

201.3 Types of Force

- A. **Deadly Force** - An officer is justified in the use of deadly force in the following circumstances:
 - 1. **Use of force in defense of person** - An officer or DBS is justified in the use of deadly force only if they reasonably believe that such force is necessary to prevent imminent death or great bodily harm to themselves or another or to prevent the imminent commission of a violent felony. **FSS 776.012**
 - 2. **Affect an arrest of a fleeing felon** - An officer or a DBS, whom the officer 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.

AND

- a. When necessarily committed, in arresting felons fleeing from justice. Deadly force may be used to prevent an arrest from being defeated by such flight and, when feasible, some warning has been given,

AND

- b. The officer reasonably believes that the fleeing felon poses an imminent threat of death or serious physical harm to the officer or others.

OR

- c. The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person. In the case of aggravated assault or armed burglary, the use of deadly force to stop a fleeing felon may only be used when the perpetrator poses a continued imminent threat. **FSS 776.05**

3. **Prevent escape from a penal institution - (County Jail or State Prison)** An officer or correctional officer, DBS or other law enforcement officer is justified in the use of force, including deadly force, which is reasonable to prevent the escape from a penal institution of a person whom the officer reasonably believes to be lawfully detained in such institution under sentence for an offense or awaiting trial or commitment for an offense. This does not include Agency facilities, outposts, holding cells, booking areas, or patrol cars. **FSS 776.07**
4. Whenever **practical**, some sort of verbal warning should be given prior to the application of any deadly force.
5. Deadly force will be used only as a last resort.
6. Implements of force or opportunity and/or unconventional techniques may be used as a last resort to protect an officer's, or DBS's, life in dire circumstances.
7. Officers and DBS II **will not** discharge their firearms at or from a moving vehicle, except as an ultimate measure of self-defense or defense of another. The use of a firearm for the exclusive purpose of stopping the motion of the vehicle is prohibited.

OR

- a. For the exclusive purpose of making an arrest is prohibited.

OR

- b. To prevent the escape of an occupant is prohibited.

8. The prohibitions listed in section (7) above, **DO NOT** apply to the use of firearms when employed under the following circumstances:
 - a. In cases where the officer is an occupant of the vehicle and has a reasonable ability to establish and gain control of the operation of the vehicle.
 - b. An occupant is engaged in force likely to cause death or great bodily harm against another person in, on or about the vehicle and the officer believes the use of deadly force by a firearm is the only effective means to stop this action.

- c. Where the vehicle is stationary, parked or traveling at extremely low speeds and there is an ability to immediately establish control of the vehicle by the officer or another occupant.
 - d. By officers using specialized weaponry and ammunition that will effectively incapacitate an occupant and either the vehicle will be incapacitated, or control of the vehicle can be quickly established by officers or other occupants.
 - e. Nothing herein prohibits the appropriate use of tire deflation devices or authorized vehicle pursuit techniques as provided in Vehicle Pursuits **GO 214**.
9. Members whose accidental or deliberate actions result in death or great bodily harm will be placed on administrative leave with pay until a preliminary administrative review is conducted by the Chief of Police, or designee.

10. **Warning shots are prohibited.**

B. Less-Lethal Force Legal Authority

1. The Agency has adopted a less-lethal force philosophy to assist with the de-escalation of potentially violent confrontations. Officers or DBS will use statutory guidelines for the use of non-lethal force. Officers or DBS are authorized to use less lethal force will use such force in accordance with force guidelines. An officer or DBS is justified in the use of force, except deadly force, against another in the following instances:
 - a. **Protection of Life and Property:**
 - When an officer or DBS reasonably believes less-lethal force is necessary to defend themselves or another against the use of unlawful force. **FSS 776.012**
 - Only a sworn officer is justified in the use of force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to prevent or terminate the other's trespass on, or other tortious or criminal interference with, either real property other than a dwelling or personal property, lawfully in his or her possession or in the possession of another who is a member of his or her immediate family or household or of a person whose property he or she has a legal duty to protect. **FSS 776.031**
 - b. **Use of Force in Making an Arrest: FSS 776.05**
 - An officer, or DBS who has been summoned by an officer, need not retreat or desist from efforts to make a lawful arrest because of active, threatened, or passive resistance to the arrest.
 - An officer or DBS is justified in the use of force when it is reasonably necessary to protect themselves or another from bodily harm.
- c. The use of the carotid or chokehold as a means of controlling or subduing a suspect is prohibited unless the use of deadly force is appropriate, and no other means are available.

201.4 Force Guidelines

Provide a framework for making decisions involving the reasonable use of force. The structure of the Force Guidelines is based on constitutional considerations and case law and describes 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

1. Passive resistance is 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 direction.
 - b. The subject peacefully protests at a political event in a public location.
 - c. The subject refuses to take his hands out of his pockets or from behind his back.
2. Active resistance is 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. Some examples of active resistance include the following:
 - a. The subject physically anchors himself to a person or object to prevent himself from being removed.
 - b. The subject braces or pulls away from the officer when the officer grips the subject's arm.
 - c. The subject attempts to run when the officer touches or attempts to grab him.
3. Aggressive resistance is a subject's attacking movements toward an officer that 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 pushes the officer back as the officer tries to take him into custody.
 - b. The subject grabs any part of the officer's body.
4. Deadly force resistance is a subject's hostile, attacking movements with or without a weapon that 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. Some examples of deadly force resistance include the following:
 - a. The subject refuses to drop a knife when ordered to by the officer and moves toward the officer.
 - b. The subject shoots or points a gun at an officer or other person.
 - c. The subject tries to run an officer down in a vehicle.

B. Officer Response Options

Officers should always 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 them. 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 all the force reasonably necessary for the circumstances in each specific situation. Options include:

1. Physical control
2. Nonlethal weapons
3. Deadly force

C. Factors for Deciding When to Use Deadly Force

Officers use three criteria for making deadly force decisions: ability, opportunity, and intent.

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 he has the ability. For example, a 6'4", 250-lb. muscular man threatening to do bodily harm to an officer does not necessarily need a weapon. By virtue of his size and physical condition, he has the apparent ability.
2. **Opportunity** means the subject is capable of carrying out an intention to cause death or great bodily harm to the officer or others. The subject's weapon often determines opportunity. For example, a suspect armed 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 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. Remember that when resistance deescalates, so must the response.

D. Totality of circumstances is a term the court uses to refer 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. The courts will look at 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 factors that may influence the situation, and the response options available to the officer. Some situational factors may include the following:

1. Severity of the crime
2. Subject is an immediate threat
3. Subject's mental or psychiatric history, if known to the officer
4. Subject's violent history, if known to the officer
5. Subject's combative skills

6. Subject's access to weapons
 7. Innocent bystanders who could be harmed
 8. Number of subjects versus number of officers
 9. Duration of confrontation
 10. Subject's size, age, weight, and physical condition
 11. Officer's size, age, weight, physical condition, and defensive tactics expertise
 12. Environmental factors, such as physical terrain, weather conditions, etc.
- E. The Force Guidelines recognizes that officers make use of force decisions based on the totality of circumstances at the time of the incident. Circumstances are fluid and dynamic. Formulating a valid response requires continual assessment as the situation changes.

201.5 Implements of Force

The following is a list of authorized implements of force. Weapons listed will be inspected by the Agency instructor when initial training is provided, at proficiency training and by supervisors during the line inspection process. Firearms are inspected only prior to a member carrying the firearm as directed in GO 202. Inspection requirements are outlined in each General Order listed below. Authorization to carry and/or use the implements will be granted only to those members who have successfully completed the Agency-approved training course and in accordance with Agency Training General Order **GO 405**. Completed Response to Resistance Forms on the use of implements of force will be included in the Department's annual review.

- A. Firearms **GO 202**
- B. Less- Lethal Munitions **GO 203**
- C. Taser **GO 204**
- D. Chemical Agents **GO 205**
- E. Expandable Baton **GO 206**
- F. Flashlight **GO 207**
- G. Hands Free Control **GO 208**
- H. Restraint Devices **GO 209**

201.6 Implement Carry Requirements

All sworn officers and Desk Booking Specialists will adhere to the following implement carry requirements.

- A. **First Responders** - All uniform sworn officers and Desk Booking II who are first responders will wear a firearm, handcuffs, Advanced Taser, chemical agent (optional), expandable baton and /or short flashlight on their duty belt. If the officer is wearing an authorized load bearing vest, the firearm and magazine pouch will be worn on the duty belt and all other implements may be worn on the vest in a neat and orderly fashion.

- B. **Lieutenants, Sworn Officers in Administrative Positions, and Upper Command Staff** - may wear a duty belt with a firearm and pac set when in police uniform.
- C. **Non-Uniformed Officers** - will carry at least one authorized firearm and nonlethal implement on their person, or in carry bag, and one set of handcuffs while on duty and out of the office. If the implement and handcuffs are exposed to public view, officers must prominently display their badge either beside their firearm, (next to their holster), or on a neck chain. Officers must also be dressed in accordance with **GO 413** or wearing a Department-approved polo shirt, tee shirt with badge insignia or jacket with badge insignia. Unless clearly identified as a police officer, implements, handcuffs and firearms will be concealed from public view. Officers working in an undercover capacity, or officers with the approval of a Division Commander, are exempt from dress and carry requirements noted above.
- D. **Desk Booking, I** - will carry authorized handcuffs, chemical agent and expandable baton and/or short flashlight on their duty belt.

201.7 Reporting Response to Resistance

- A. **Report Required** - Members will submit a written report prior to the end of their tour of duty whenever they apply physical force, implements of force, or discharge a firearm for other than training or recreational purposes. Properly applied restraint devices are neither physical force nor implements of force for reporting purposes. Therefore, the application of restraint devices on compliant subjects does not require a report; however, members will complete a report when using the TARP procedure.
 - 1. A report is required whenever a member takes an action that results in, or is alleged to have resulted in, injury or death of another person.
 - 2. In cases of serious, (great bodily), injury or death of a suspect, the member who applied force on the injured or deceased suspect, is allowed consultation with a representative or legal counsel prior to providing a statement or report. In such cases, the member will provide a statement or report within 48 hours after the incident, unless otherwise approved by the Chief of Police. This exception applies only to the member(s) who applied force resulting in serious (great bodily) injury or death of the suspect.
 - 3. Any officer or department member who observes any act of excessive use of force is required to immediately intervene. All acts of excessive use of force will be immediately reported to the shift supervisor. A Response to Resistance form will be completed by the shift supervisor, outlining the circumstances and forwarded up the chain of command to the Chief of Police for review.
 - 4. **Response to Resistance Form** - Reporting members will complete a Response to Resistance Form and forward this form to their supervisor prior to the end of their tour of duty except in incidents described in A2, where they will report within 48 hours.
Response to Resistance Form
 - 5. Photographs **MUST** be taken of ALL subjects that force is used on whether or not they have/complain of injuries. Photos will be copied to a CD/DVD. One copy of the photos will be turned in to Property & Evidence as evidence, and the second copy will be

forwarded to Internal Affairs, through the chain-of-command, with the Response to Resistance form.

- B. **Notification** - Members will immediately notify the Communications Center and their supervisor when physical force is used. Additionally, when a subject has slipped out of the hand cuffs to defeat the restraints, the Communications Center and supervisor will be notified without delay.
- C. **Supervisor Responds** - The officer's supervisor will respond to the scene, ensure medical attention has been applied when necessary, interview witnesses, and review the application of force. The supervisor will make the initial determination whether or not the use of force was found to be in compliance with policy.
 - 1. **Use of Force by Lieutenant or Higher Rank** - In the event a use of force is made by a Lieutenant or higher rank, the on-duty Commander will be immediately notified. A staff duty notification will be made via telephone in the event the use of force occurred during nights or weekends. The contacted Commander will have the option of responding or delegating the use of force investigation to an on-duty Sergeant or higher rank.
 - 2. No junior ranking officer will investigate a senior ranking officer's response to resistance unless advised to do so by a Commander.
- D. **Watch Commander Review** - The member's supervisor will review the Response to Resistance Form and forward this form to his Watch Commander for review within 24 hours or prior to the end of the supervisor's tour of duty if it is their last scheduled workday.
- E. **Division Commander's Responsibilities** - The Division Commander or Deputy Chief, upon receipt, will review the Response to Resistance Form and note his assessment of the use of force that is or is not in compliance with policy. The Division Commander or Deputy Chief will forward the Response to Resistance Form to the Internal Affairs Unit by the end of his/her tour of duty. The Division Commander or Deputy Chief or supervisor will not determine on the Response to Resistance Form whether the force was in policy involving incidents where the person sustained seriously bodily injury or death.
- F. **Response to Resistance and Arrest** - Officers' actions in employing physical force which includes takedowns, use of the Taser, (drive stun or probe), chemical agents, or impact weapons, should result in an arrest for criminal charges or other legal action, (Baker Act, Myers Act, etc.). If arrest is deemed inappropriate, the Division Commander or Watch Commander will be notified immediately and an Incident Report and a Response to Resistance Form will be completed.
- G. **IA Review** - The supervisor of the Internal Affairs Unit will review all Response to Resistance Forms and note his assessment of the use of force that is, or is not, in compliance with policy. The Internal Affairs Unit supervisor will forward a copy of the Response to Resistance Form to the Training Section. The Internal Affairs Unit will provide an annual use of force report on all reported Agency use of force incidents. **GO 224**
- H. **Training Needs** - The Training Section will review Response to Resistance Forms in order to assess current Agency training needs. **GO 405**