

RESPONSE TO RESISTANCE

Purpose:

The purpose of this General Order is to establish procedures for the use of less-lethal and deadly force by police officers.

Policy:

It is the policy of the Maplewood Police Department to accomplish its mission as efficiently as possible, with the highest regard for human dignity of all persons and with the least amount of force as necessary. Investing police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. The use of physical or lethal force shall be restricted to circumstances authorized by law and only to the degree minimally necessary to accomplish a lawful objective.

Legally Mandated Authority:

- A. Pursuant to RSMo 571.030, Subdivision 2 (1), all sworn personnel having the duty and power of arrest are authorized to carry department approved firearms and less-lethal weapons. This statute applies to all sworn personnel both on and off duty.

Definitions:

- A. Control is the method(s) an employee uses to neutralize the actions of an individual or to prevent the individual from injuring himself or others.
- B. Resistance is defined as the individual's efforts to evade an officer's attempt to establish control.
- C. Force is the attempt to establish control through physical or other means in the presence of resistance. All force is a means of control; however, control can at times be achieved without the use of physical force.
- D. Less-lethal force is that amount of force that will not likely result in death or serious physical injury.
- E. Lethal force is that amount of force that could result in death or serious physical injury.
- F. Minimum amount of force is that amount of force that is objectively reasonable and shall be based upon the totality of the circumstances known or perceived by the officer to overcome the resistance offered and to affect the lawful performance of duty.
- G. Reasonable belief means the facts or circumstances the officer knows or should know are such that they would cause a prudent person to act or think in a similar way under similar circumstances.
- H. Reasonably necessary is that amount of force used only to accomplish lawful objectives and only to the extent reasonably necessary in light of the circumstances confronting the officer. Force is reasonably necessary only if lesser force would not likely lead to the safe control of persons and/or situations.
- I. Serious physical injury is a bodily injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.
- J. Last resort situations are those wherein immediate and drastic measures must be undertaken by an employee in order to protect human life. Force used in these situations may involve the use of techniques or weapons not

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covered by this order or department policy; however, they remain subject to reasonable and necessary use of force standards.

- K. Administrative assignment/leave is a temporary, paid assignment, other than the normal duty assignment, as determined by the chief of police.

General:

- A. Missouri statutes and case law combine to define the legal levels of force that law enforcement officers may use in the normal performance of their duties. Both state statutes and case law should be reviewed in conjunction to fully determine the appropriate application of force. It should be emphasized that when consent or an emergency is not present, and there is not probable cause to make an arrest, the non-consensual touching by a police officer may constitute a crime, as well as result in civil liability. When probable cause exists, criminal and civil liability may still occur if the limits of the law are exceeded.
- B. During an officer's performance of duty it may be necessary to use some level of control to affect an arrest or to protect others. In many situations control may be achieved without the use of physical force. In other instances, based on the resistance offered, the officer may find it necessary to use varying levels of physical force to control the individual's actions. That amount of force may be as low as placing a hand on an individual's shoulder or arm and directing that individual to place their hands in an appropriate position in order to apply handcuffs. This amount of force would be considered mere physical contact. However, depending on the level of resistance offered, the officer may use techniques that may rise to a level of physical force that is intended to influence behavior through pain compliance in order to establish control. These techniques would consist of touch pressure, leg/hand strikes, impact weapons or even the use of firearms if justified by the resistance offered.
- C. Every employee of the department has the responsibility to immediately contact an on-duty supervisor or the patrol commander and report any act which they believe involves the use of excessive force as outlined in this General Order. The supervisor/commander shall be responsible for promptly notifying the chief of police. Any employee who fails to report physical or verbal abuse against any citizen by another member of this department is subject to disciplinary action.

Procedures:

- A. Officers should assess the incident in order to determine the level of control that would be appropriate. When possible, officers should attempt to gain control by means of verbal directives or commands.
- B. If verbal directives or commands are ineffective, or not feasible given the circumstances of the situation, the officer may find it necessary to escalate to control methods that involve the use of physical force. If force is necessary, the officer must use reasonable force and decide which technique(s) is most appropriate to de-escalate the incident and bring it under control in a safe manner.
- C. Officers are authorized to use department approved control techniques and authorized equipment for resolution of incidents as follows:
1. To stop potentially dangerous and unlawful behavior.
 2. To protect the officer or another from injury or death.
 3. To protect individuals from injuring themselves.

4. To effect a lawful arrest when an individual offers resistance.

D. Levels of Control –

1. For purposes of this policy, the use of force will be examined from two (2) perspectives; resistance and control. Both resistance and control can be in the form of verbal responses (subject) or directives (officer) or physical actions.
2. Resistance is defined as an individual's efforts to evade an officer's attempt to establish control. The amount and type of resistance will vary based on a variety of factors. For purposes of this policy, the department recognizes the following levels of individual resistance:
 - Psychological Intimidation
 - Verbal Non-Compliance (resistive dialogue)
 - Passive Resistance
 - Defensive Resistance
 - Active Assault
 - Aggravated Active Assault
3. Control is the method an officer uses to neutralize the actions of an individual or to protect individuals from injuring themselves or others. The type of control methods used will vary based on a variety of factors. For purposes of this policy, the department recognizes the following levels of control:
 - Officer Presence
 - Verbal Direction
 - Soft Empty Hand Control
 - Pepper Spray
 - Conducted Energy Weapon (TASER)
 - Hard Empty Hand Control
 - Intermediate Weapon Control (ASP)
 - Lethal Force
4. An officer's response to resistance shall be the amount of force that is objectively reasonable and shall be based upon the totality of the circumstances known or perceived by the officer at the time force was used.
5. Any visual force scales, graphical illustrations, continuums, etc., used by this department are solely demonstrative training aids utilized to encourage interactive force discussions. These aids have substantial limitations and are narrow in their focus. These aids are not the policy of this department and do not create or enlarge any standards of care. These aids specifically do not create, enhance, elevate, reduce, compare to, replace, circumvent, or supersede the applicable legal standards of force provided by federal and state law which provide clear administrative, civil and criminal accountability guides for officers' force applications.

E. Weaponless Physical Force

1. Where deadly force is not authorized, officers should assess the incident in order to determine which non-deadly technique or non-lethal weapon will best de-escalate the incident and bring it under control in a safe manner. Only the appropriate amount of physical force necessary to bring incident under control is authorized. In making an arrest, no more force shall be used than is absolutely necessary for the safe custody of the prisoner or for overcoming any resistance that may be offered and for ensuring the delivery of the

prisoner into safekeeping.

F. Less-Lethal Force

1. The department permits the use of three types of less-lethal weapons: the Oleoresin Capsicum aerosol spray, the ASP collapsible baton, the Taser X 26 and X26P conducted energy weapon. Police officers may utilize these items as an appropriate level of response as outlined in the resistance control continuum shown in section D-3.
 - a. Oleoresin Capsicum Aerosol Spray-department issued only (optional).
 - b. ASP Collapsible Baton- department issue. All officers including officers assigned to the division of criminal investigation or other plain clothes assignments may carry the ASP collapsible baton.
 - c. Taser X 26 and X26p Conducted Energy Weapon- department issue. Officers assigned to patrol and the division Of criminal investigation, school resource officer, booking officer or other plain clothes assignments may carry the Taser X 26 or X26P.

G. Lethal Force Procedures

1. Authorized Use of Lethal Force: The use of lethal force is considered a measure of last resort as defined under "Definitions" above, and is limited to the following situations.
 - a. To protect the officer or another from what is reasonably believed to be an imminent threat of death or serious physical injury.
 - b. To effect the arrest or prevent the escape of an individual who is fleeing from an inherently violent crime and there is a substantial risk that the fleeing individual poses a significant threat of death or serious physical injury if apprehension is delayed.
2. Police officers may also discharge their firearms to destroy a vicious animal which presents a substantial risk of harm or serious physical injury to the officer or others.
3. Discharge of Firearms Procedures
 - a. When a police officer has discharged a firearm causing a gunshot wound to be inflicted to any person, or when a police officer has been shot, the chief of police shall be immediately notified. The chief shall request the St. Louis County Police Department's Crimes Against Persons unit or the Missouri State Highway Patrol to investigate the circumstances of the shooting incident.
 - b. If a police officer has inflicted a gunshot wound, the on-duty supervisor shall secure the scene and weapon and assist the investigating agency to evaluate the use of deadly force and determine if it was justified and in accordance with this General Order.
 - c. When a police officer has been shot or a police officer inflicts a gunshot wound upon another person, communications shall be notified immediately either by the police officer involved in the incident or the first police officer on the scene. **Communications shall make the required notifications, including the summoning of emergency medical aid as required.**
 - d. The on-duty supervisor shall respond to the scene and be responsible for the command and protection

of the scene.

- e. Whenever a firearm is discharged by a police officer or their firearm is discharged by another person, the police officer shall:
 - 1) Immediately notify the on-duty supervisor.
 - 2) Notify communications as soon as time and circumstances permit.
 - 3) Prepare a police report detailing all circumstances surrounding the discharge. A copy of the police report shall be forwarded through the chain of command to the chief of police.
- 4. Use of Lethal Force Prohibited
 - a. Lethal force may not be used in the following situations:
 - 1) When it appears likely that an innocent person may be injured.
 - 2) To shoot at or from a moving vehicle unless the occupant(s) represents a direct and immediate threat to the life or safety of the officer or another individual and then, only as a last resort.
 - 3) Solely because a subject fails to obey a command to stop.
 - 4) To fire warning shots.
- 5. Discharge of Firearm Other than in the Application of Force
 - 1) An officer may discharge a firearm under the following conditions:
 - a. To destroy an animal which presents a substantial risk of harm to the officer or another, or when an animal is so badly injured that it should be destroyed to prevent additional suffering.
 - b. To give alarm or to call assistance in an emergency when no other means can reasonably be used, and then only when it can be done in a safe direction.
 - c. At an organized shooting match or target practice where the discharging of a firearm is not in violation of any law or ordinance and all safety procedures can be followed.

H. Escalation and De-Escalation of Force

- 1. Escalation of force may be justified when the officer reasonably believes that the level of force being used is insufficient to stop or control the resistance.
- 2. Officers may escalate to the level of force that is reasonable and necessary to control the situation, based on the level of resistance encountered. As the individual begins to de-escalate or lessen the resistance offered, the officer must de-escalate in a reasonable manner.
- 3. Officers shall allow the individual a reasonable time period to comply with all verbal commands, directions or applications of force. This is not meant to imply the officer must cease all control. Control must be maintained, but the level of force used to maintain control must de-escalate to a level commensurate to the

level or resistance currently offered by the individual.

4. There are variables which effect the officer's decision to escalate and de-escalate the level of control. These variables include, but are not limited to:
 - a. Officer/suspect size and physical abilities
 - b. Environmental conditions
 - c. Nature of contact of officers and suspects
 - d. Availability of assistance

I. Medical Considerations

1. Employees using any degree of force on an individual shall make medical treatment available to that individual when:
 - a. The individual requests medical treatment.
 - b. The individual complains of injury or pain or shows signs of unusual distress.
 - c. Any employee observes or suspects injury to the individual.
 - d. Directed by a supervisor or other appropriate authority.
2. Employees who obtain medical treatment for an individual shall document this information, along with the nature of the injury or complaint of injury, in a police report.
3. Treatment shall be obtained from a licensed medical care provider whose name or names shall be documented in the police report.
4. Once an individual is placed under the care/treatment of a medical care provider, the individual shall not be removed from this care without approval from the medical care provider or unless the individual refuses treatment.
5. A fit for confinement authorization document shall be obtained from the medical care provider if the provider determines the individual is fit for confinement.
6. When an employee determines that an individual is in need of medical treatment, the employee, in addition to making treatment available as described above, shall:
 - a. Notify their supervisor at the earliest available opportunity.
 - b. Promptly notify their supervisor of the individual's condition after the individual has been examined by the appropriate medical care provider.

J. On-Duty Response to Resistance Notifications

1. Employees involved in a response to resistance incident while on duty shall notify the on-duty supervisor immediately, or as soon as reasonably possible.

2. For incidents involving serious injury, the discharge of a firearm, or any type of lethal force, the scene supervisor shall **immediately** notify the patrol commander. The patrol commander shall promptly notify the chief of police and any other personnel as may be appropriate.
 - a. The scene supervisor shall promptly notify the patrol commander.
 - b. The patrol commander will promptly notify the chief of police and any other personnel as may be appropriate.
3. When a juvenile is involved in any type of use of force incident, the parent(s) or guardian of the juvenile shall be contacted and notified of the incident by the patrol commander, the scene supervisor, or their designee.

K. Off-Duty Response to Resistance Notifications

1. Incidents occurring **within or outside** the Maplewood city limits.
 - a. Any officer who is off-duty and involved in a response to resistance incident shall notify the on-duty Maplewood police supervisor as soon as reasonably possible.
 - 1) If the incident occurs outside the city limits, the on-duty supervisor will evaluate the incident to determine if a supervisor's immediate response to the scene is warranted. If such a determination is made, the on-duty supervisor will make the appropriate arrangements to have a supervisor respond.
 - b. The on-duty supervisor shall immediately notify the patrol commander. If the patrol commander is unavailable, the detective lieutenant commander will be notified.
 - 1) The patrol/detective commander will promptly notify the chief of police and any other personnel as may be appropriate.

L. On-Duty Supervisor Responsibilities

1. Ensure a "Response to Resistance Report- MPD Form 39" and a police report are completed and forwarded to the patrol commander. The report shall be written and completed as soon as reasonably practical after the incident.
2. Reporting procedures will be followed in accordance with department guidelines for writing incident reports.
 - a. If the incident occurred outside the Maplewood city limits, a copy of the report from the jurisdiction in which the incident occurred will be attached to the officer's memorandum.

M. Response to Resistance Report Writing

1. A police report shall be written on **ALL** response to resistance incidents whenever an employee:
 - a. discharges a firearm, for other than training or recreational purposes;
 - b. takes an action that results in, or is alleged to have resulted in, injury or death of another person;

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- c. applies force through the use of lethal or less lethal weapons;
 - d. applies weaponless physical force at a level as defined by this agency, (on page #3, E. # 1 of this General Order).
 - e. Points duty weapon directly at suspect/individual.
 - f. In the event an officer un-holsters his/her duty weapon and keeps their weapon held at a low ready position; never pointing it directly at a suspect/individual, and this is the only response to a subject's resistance, then a response to resistance report is not required.
2. If multiple officers are involved in the same response to resistance incident, the officer making the initial contact will prepare the original report.
 3. Reporting procedures will be followed in accordance with department guidelines for writing incident reports.

N. Lethal Force or Serious Injury – Post Incident Procedures:

1. When lethal force or serious injury incident occurs in an official capacity, the department must act in the best interests of all parties involved. In that regard, the following procedures will be instituted:
 - a. The involved police officer /corrections officer will be removed from the incident scene as soon as \ practical.
 - b. A reasonable recovery period (e.g., 1-2 hours) may be allowed before any questioning of the involved employee(s) is conducted.
 - c. The involved police officer /corrections officer will be removed from their current duty assignment and placed on paid administrative leave/assignment pending further review/investigation of the incident. Administrative assignment may be in the form of an on-duty assignment as determined by the chief of police. The police officer /corrections officer involved will remain on administrative assignment until otherwise determined by the chief of police. The assignment to administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly.
 - d. The police officer / corrections officer will be referred to the City of Maplewood employee assistance program for a counseling session with a specialist in post critical incident counseling. This referral will be for support purposes, allowing the police officer /corrections officer to discuss any problems resulting from the incident. The contents of this session will remain confidential and will not be available to the department or used by the department in subsequent proceedings. In exceptional circumstances, the employee may be referred to a mental health professional in preference to the employee assistance program.
 - e. Following this counseling, the chief of police will schedule the employee for an interview with a psychologist hired by the department.
 - f. This interview with the psychologist will be used to determine if the police officer / corrections officer is psychologically fit to return to duty. Information discussed during this interview and the psychologist's recommendation, while treated in a confidential manner, will be provided to the department in a written report.

- g. Participation in this program is mandatory for a commissioned employee who uses a weapon which results in the death of a person. The chief of police may authorize participation in this program for employees involved in other critical incidents.

O. Investigation and Review of Response to Resistance Incidents

1. The patrol commander serves as the department primary internal affairs investigator.
2. Unless otherwise directed by the chief of police, the patrol commander shall review the response to resistance and the relevant police report will be forwarded to the chief of police.
3. The chief of police will review all response to resistance incidents and will take that action deemed most appropriate.
4. In January of each year an analysis of all response to resistance incidents for the preceding year will be conducted by the patrol commander and reported to the chief of police. The intent of the review is to determine whether there are policy, training, weapon/equipment, or discipline issues which should be addressed.

P. Prerequisites to Carrying Lethal / Less Lethal Weapons:

1. All agency personnel, prior to being qualified and authorized to carry lethal and less lethal weapons, will receive and review all related instruction with respect to the following policies;
 1. Response to Resistance Openhand and Pressure Point Techniques,
 2. Department Authorized Weapons,
 3. Firearms including; Pistol, Shotgun and AR-15 rifle,
 4. Taser-Electronic Control Device,
 5. ASP-Collapsible Baton and;
 6. OC Pepper Aerosol Restraint Spray.

The instruction for each authorized lethal and less-lethal weapon will only be given by qualified personnel. All instructors will be certified in the specialized training for each specific lethal and less lethal weapons class of instruction. Each instructor will be responsible to confirm that all employees understand legal implications, the requirements of weapon specific operations, care procedures, and documentation of reporting use procedures.

2. Electronically signed documentation verifying that each employee received the curriculum for; Response to Resistance, Department Authorized Weapons, Firearms, Taser-Electronic Control Device, ASP-Collapsible Baton, and OC Pepper Aerosol Restraint Spray will be maintained by the accreditation manager in the PowerDMS program.
3. Training will be documented and all training records will be maintained by the instructor of each course. The instructors will be responsible to forward copies of all training records to the police secretary to be imaged onto the city's "G" drive, and instructors will maintain the original sign-in sheets and all

documentation of training after the imaging process is completed.

4. Any violations of this policy, or portions thereof, may result in disciplinary action.

Q. Officers of this department assigned to or assisting other law enforcement agencies will be guided by this policy.

R. This policy will be reviewed annually by all sworn employees and correctional officers.

This General Order supersedes all prior directives and orders inconsistent therewith.

By Order of:

Stephen M. Kruse
Chief of Police

Reference: RSMo. 571.030 subdivision 2

Distribution: All Police Personnel