



Lexington Police Department

Lexington, Kentucky

GENERAL ORDER

BY THE AUTHORITY OF THE CHIEF OF POLICE

G.O. 1991-02J Response to Resistance

Rescinds: GO 1991-02I

References: CALEA Chapter(s) 1; 33

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I. PURPOSE

The purpose of this policy is to provide guidelines regarding the use of lethal, less-lethal and non-lethal force in response to resistance, and to ensure that each officer understands and complies with these standards.

II. POLICY

It is the policy and primary principle of the Lexington Police Department that all employees recognize the importance of the preservation of human life and to respect basic human rights.

It is the policy of the Lexington Police Department for officers to use the objectively reasonable amount of force necessary in the control and apprehension of a subject in order to minimize the chance of injury to themselves and others.

It is the policy of the Lexington Police Department that after any response to resistance incident, and when safe to do so, officers shall immediately render aid to the injured person(s) consistent with the officer's training and experience and request appropriate medical assistance.

III. DEFINITIONS

Deadly Physical Force: means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.

Objectively Reasonable: means that, in determining the necessity for and the appropriate level of force, officers shall evaluate each situation in light of the circumstances as known to them, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

Physical Force: means force used upon or directed toward the body of another person and includes confinement.

Physical Injury: means substantial physical pain or any impairment of physical condition.

Reasonable Belief: is defined as more than mere suspicion and consists of concrete facts or reliable information.

Serious Physical Injury: means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ.

IV. DUTY TO INTERCEDE

A. Police officers “have an affirmative duty to intercede on the behalf of a citizen whose constitutional rights are being violated in their presence by other officers.

B. Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of such excessive force.

C. Such officers shall also promptly report these observations to a supervisor. The supervisor shall promptly forward the information, via the chain of command, to the bureau assistant chief.

V. PROCEDURES

A. DE-ESCALATION

1. Officers who encounter a situation where the possibility of violence or resistance to lawful arrest is present should, if possible, defuse the situation through advice, warning and verbal persuasion.
2. Officers shall modify their level of force in relation to the amount of resistance offered by a subject.
3. As the subject offers less resistance, the officer shall lower the amount or type of force used.
4. Conversely, if resistance escalates, officers are authorized to respond in an objectively reasonable manner.
5. Officers should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of force options.

B. RESISTANCE CONTROL PRINCIPLES

1. Use of physical force in response to resistance shall be consistent with the training and policies of the department and KRS Chapters 503 and 520. Should physical force be used in order to gain control of a situation, an officer shall use only that force which is reasonable to gain control of the subject.
 - a. Once a person is restrained or under control, the use of force is restricted to that which is reasonable to maintain control.
 - b. Good judgment is extremely important in deciding which tactics to use and how much force to apply.

2. Only issued and/or approved weapons shall be carried or used when applying force, except in emergency situations when an employee must use any resource at his or her disposal.
3. All restraining devices shall be used in accordance with Lexington Police Department training and policy guidelines. (Refer to GO series 1992-16 Prisoner Security and Transportation.)
4. At all times, officers should bear in mind the legal principle of “lesser force” in any apprehension, felony or misdemeanor, and use only the force necessary to affect lawful objectives.
5. An officer may use deadly physical force only when the officer reasonably believes that the action is in defense of human life, including the officer’s own life, or in defense of any person in immediate danger of serious physical injury.

C. RESISTANCE CONTROL CONTINUUM

Note: The Resistance Control Continuum has been included in this policy only as a general guideline for comparing accepted forms of control or force against various types of resistance that may be encountered.

1. The Resistance Control Continuum used by the department was designed by Pressure Point Control Techniques Management Systems.
2. One or more control techniques may be used depending upon the level of resistance. However; it is not necessary to follow the order of the continuum when circumstances dictate that the officer escalate to a higher level of control.
3. Variables which affect the Resistance Control Continuum may include, but are not limited to, the size and gender of the officer and subject, the totality of the circumstances such as the danger or imminent threat to the officer or others, and the officer’s reaction time or ability to respond.
4. Special circumstances may exist which will affect the officer’s options as to how he or she responds. These may include the suspect’s close proximity to a firearm, special knowledge of the circumstances or suspect, injury to or exhaustion of the officer, ground, disability, and imminent danger.
5. Impact weapon strikes to vital areas, which include the head, neck, spine, chest cavity, groin, kidney region, and coccyx, could result in serious physical injury or death. Officers should not intentionally strike these areas with an impact weapon unless a deadly physical force response would be objectively reasonable.
6. The TASER®, also referred to as a conducted electrical weapon [CEW] is considered an intermediate weapon on the Resistance Control Continuum. The CEW is to be used to control suspects that use physical actions in an attempt to prevent officer control/arrest (defensive resistance, active aggression, or attempt to injure self), and lower levels of control were not

effective or the officer has an objectively reasonable belief that lower levels of control will not be effective.

- a. Officers are permitted to only carry and use CEW's and holsters that have been issued by the department.
- b. The use of CEW's shall be consistent with department training and applicable laws.
- c. The officer shall consider the totality of circumstances as reasonably perceived by the officer, including but not limited to:
 1. Is the suspect posing a current threat to the safety of officers or others?
 2. What is the severity and violence level of the crime?
 3. Does the suspect have a history of violent behavior?
- d. In addition to the specific factors identified above, the following list represents variables if present, that may assist in justifying a particular level of control used. All variables which are involved in the decision to utilize the CEW should be articulated in the critical incident report. This list is not intended to be all inclusive:
 1. The number of suspects versus the officers involved.
 2. Size, age, and physical condition of the officer and suspect.
 3. Known or perceived physical abilities of the suspect.
 4. Perception of the use of alcohol or drugs by the subject.
 5. Perception of the suspect's mental state based on specific actions.
 6. The availability and proximity of weapons.
 7. Environmental and weather factors.
 8. Injury to the officer or prolonged duration of the incident.
 9. Officer on the ground or other unfavorable position.
- e. Officers shall consider the risk of secondary injury caused by the sudden incapacitation of the subject. If the risk of serious physical injury is greater than the need to incapacitate, the officer will not use the CEW.
- f. Officers should not utilize the flashlight on the CEW for illumination purposes unless the situation warrants the use of a CEW.
- g. When tactically feasible, officers will give the verbal warning of "Taser, Taser,

Taser” to alert other officers that the CEW is about to be used so they can create a safe distance between themselves and the target, as well as to prepare to move in and control while the suspect is under power, if safe to do so. This will also serve as a warning to the subject that a CEW will be deployed if they do not cease their resistance and comply with the officer’s verbal commands.

h. The potential exists for CEW’s to cause physical injury when striking the eyes, neck, head, breasts, and/or groin areas. Officers should not intentionally target those areas of the body. The preferred target area when deploying a CEW should be to the back or below the solar plexus on the front of the body.

i. During any standard CEW cycle, handcuffing should occur as soon as practical to control and secure the subject in order to minimize the number of standard CEW cycles. Officers may make contact with the subject while the CEW is activated, as long as caution is taken not to touch the subject between the locations of the two probes.

j. When using the CEW, officers shall continually assess each standard CEW cycle to verify the effects on the suspect. When activating the CEW on an individual, the officers shall activate the device the least number of times, and no longer than what is objectively reasonable, to control the subject. If the subject has been exposed to three cycles of the CEW without the desired effect, the CEW may be deemed ineffective and officers should be prepared to employ other means to control the suspect including, if necessary, other levels of force consistent with department policy.

k. When multiple officers are present they should attempt to communicate with each other in an effort to ensure only one officer deploys the CEW. In the event the CEW is not successful based on poor probe spread, low muscle mass contact, or if both probes are not in contact with the subject, an additional officer shall shout the words “Taser, Taser, Taser,” if tactically feasible, and activate his/her CEW. The first deploying officer shall discontinue use of his or her CEW and shall aid in securing the person.

l. The CEW is equipped with a “Drive-Stun” mode backup capability. The “Drive-Stun” should be used at close range with the cartridge remaining on the CEW. The officer should target the arms, legs, or motor nerve points when deploying the probes in a drive stun. This drive stun deployment alone will not typically cause the desired neuromuscular incapacitation (NMI) in a suspect. When possible, a separate point of contact should be obtained with the CEW in a target area away from the probes which will create NMI. Officers should refrain from deploying to the neck, trachea, and groin unless the suspect is exhibiting high levels of active aggression towards the officer.

m. In the event that one of the probes has missed the subject, or there is clothing, disconnect the “Drive-Stun” to complete the conductive circuit.

n. Officers may deploy the CEW to incapacitate dangerous animals posing an immediate threat to officers or the public.

o. Immediately after utilizing the CEW on a suspect and getting the suspect in custody, the officer who deployed the CEW shall immediately notify an on duty supervisor and

evaluate the need for medical attention or treatment.

7. Restrictions to CEW Use

a. Officers should not use a CEW:

1. Within the proximity of flammable liquids, gases, or any other highly combustible materials that may be ignited by the device, including any individual known to have been exposed to combustible substances or liquids such as gasoline or other chemical irritants sprayed by any person outside the department.
2. On handcuffed persons, unless doing so is necessary to prevent the person from causing serious bodily injury to him/herself or others, or is involved in a physical assault against the officer and lower levels of control have proven ineffective.
3. When a subject is in a location where he or she could drown.
4. On a subject who is in control of a vehicle (e.g. automobiles, trucks, motorcycles, ATV's, scooters) while that vehicle is moving or can easily be put in gear.
5. When faced with passive resistance "dead weight" only.
6. To prevent or stop the suspect from ingesting contraband.
7. On obviously pregnant women, elderly persons, young children and visibly frail persons.
8. In a situation where the officer has a reasonable belief that the subject might fall, likely resulting in death or serious physical injury.
9. When the subject is fleeing from arrest based on the charge of fleeing and evading only. Officers should have probable cause to arrest and the individual:
 - a. Poses an immediate threat to themselves, the officer or other persons, or
 - b. Is armed or the officer reasonably believes the subject to be armed based on actions of suspect, or
 - c. During incident prior to flight, resisted the officer's attempt to take them under control with an overt intention to use violence or force against themselves, the officer, or another person.

b. The only exception to these restrictions is when:

1. The level of resistance is Active Aggression or a Deadly Physical Force Assault, and

2. The use of another intermediate weapon (if available), less-lethal weapon or firearm would create a higher risk of serious physical injury or death to the subject or others.

c. Officers shall be aware of the general concerns raised when a CEW is used in any of the above incidents. Officers are not prohibited from using a CEW on such persons, but are limited to those exceptional circumstances where the potential benefit of using the device (i.e. injury reduction) reasonably outweighs the risks and concerns.

8. Post-Use of CEW

a. Whenever a CEW is deployed effectively on a subject, an EC Unit shall be requested to assess the condition of the subject. If the CEW deployment is ineffective and no part of the CEW made contact with the subject's skin, no EC Unit is needed.

b. When the CEW probes are embedded in the person, EC personnel should be requested to remove the probes. If exigent circumstances exist and the immediate removal of the probes is required, officers should remove the probes in a manner consistent with their training. The CEW probes should be treated as a biohazard risk.

c. Officers shall notify a supervisor to arrange for photos to be taken of embedded probes, or of the site of CEW probe impacts, if applicable.

d. If a subject displayed unusual reactions or medical distress as a result of the use of the CEW, the cartridge and probes shall be booked in to the Property and Evidence Unit as evidence.

e. Replacement cartridges can be obtained at the Technical Services Unit during normal business hours, and at Reports Desk after hours and on the weekends.

f. After an officer deploys the officer's CEW, the officer's supervisor shall download the TASER data download report from the CEW onto a department computer using the appropriate software. This report shall be attached to the BlueTeam report.

g. The Training Section shall conduct an annual maintenance download of officers' CEW's.

[The Resistance Control Continuum begins on the next page.]

RESISTANCE CONTROL CONTINUUM

Suspect's Actions

LEVELS OF RESISTANCE

Psychological Intimidation

Non-verbal clues which indicate a subject's attitude, appearance, physical readiness.

Verbal Noncompliance

Verbal responses indicate unwillingness attitude.

Passive Resistance

Physical actions that do not prevent officer's attempt to control, dead weight, active passiveness.

Defensive Resistance

Physical actions that prevent officer's control without attempting to harm the officer.

Active Aggression

Physical assault on the officer

Deadly Physical Force Assaults

Deadly physical force encounters

Officer Control Options

LEVELS OF CONTROL

Officer Presence

Identification of authority

Verbal Direction

Commands of direction or arrest

Soft Empty Hand Control

Wrist and arm locks

Takedowns

Pressure point control

Handcuffing

Hard Empty Hand Control

Empty hand strikes

Elbow strikes

Kicks

Intermediate Weapons

(CEW)

OC pepper spray

Baton arm bars and takedowns

Impact weapon strikes to non-vital areas

Pepper ball rounds

Less-Lethal Weapons

Sponge round

.12 gauge bean bag round

Deadly Physical Force

Impact weapon strikes to vital areas

Firearms

D. SPECIAL CONSIDERATIONS

1. Deadly physical force may be used in those instances where, in the officer's judgment, there exists an imminent threat of death or serious physical injury to him/herself or another and no viable alternative exists by which the threat can be removed or reduced.

a. This provision includes such occurrences as the apprehension of a subject who, in the course of committing a felony, threatened or used deadly physical force and who, in the reasonable belief of the officer, is likely to be an immediate danger if not apprehended.

2. Deadly physical force may only be used against a “fleeing felon” when the officer reasonably believes that the action is in defense of human life, including the officer’s own life, or in defense of any person in immediate danger of serious physical injury.
3. Deadly physical force may never be used on mere suspicion of an offense. An officer should either have witnessed the offense or have sufficient evidence to know, as a certainty, of the offense and the identity of the perpetrator.
4. Choking techniques are not an approved force option and are prohibited, except in deadly physical force encounters.
5. The use of “warning shots” is strictly forbidden by the department.
6. When an officer uses force that results in the death or serious physical injury of another person, the officer shall be administratively reassigned per procedures outlined in GO series 1992-07 Compensation, Benefits and Conditions of Work.

E. RESPONSIBILITIES OF OFFICERS USING FORCE

1. If physical force is used and there is any indication or probable injury to the subject, an officer shall immediately evaluate the need for medical attention or treatment for the subject upon whom the physical force was used.
 - a. The officer is to arrange for transportation and treatment for a subject if that subject is injured or complains of an injury.
2. Whether or not a subject refuses or accepts medical treatment, the subject will be afforded transportation by an EC Unit for the purpose of medical treatment by a qualified medical technician or hospital personnel. Refusal will be documented.
3. The officer shall immediately notify the officer’s immediate supervisor of the incident.
4. Once a prisoner is controlled and handcuffed or otherwise restrained, officers are responsible for monitoring the prisoner’s color, breathing and level of consciousness.
5. A resisting prisoner who must be placed into a prone (face down) position to be subdued should be repositioned to the sitting position or placed on his or her side as soon as restraining devices are applied.
6. Officers who must use their body weight to control a prisoner who is in the prone position shall exercise extreme caution and shall immediately remove their weight as soon as restraining devices are applied and potential weapons that may be accessible to the prisoner are secured.
7. The officer shall immediately request an EC Unit if the subject does not demonstrate “a functional level of consciousness” (voluntary movement and/or speech).
8. The officer shall be responsible for requesting an EC Unit when the officer effectively

deploys a CEW in any manner on a subject or the subject is sprayed with OC pepper spray or any other chemical agents.

F. RESPONSIBILITIES OF THE IMMEDIATE SUPERVISOR

1. It is the responsibility of the immediate supervisor of any officer who uses force, within the guidelines of V. G. 2. a-j below, to respond to the scene as soon as practical.

a. In the event the officer's immediate supervisor is not available, another supervisor will respond to the scene.

2. When an officer discharges any firearm or uses any weapon against another person which results in the death or serious physical injury of any person, the officer's immediate supervisor and a lieutenant shall respond to the scene.

3. Responsibilities of the responding supervisor include:

a. Ensuring that an EC Unit responds to the scene to assess, treat, and/or transport any subject who is injured or who complains of injury.

b. Ensuring prompt notification of the Patrol Duty Commander or designee.

1. The Patrol Duty Commander or designee is responsible to initiate incident notification procedures based on the circumstances, including notification of the Chief of Police per currently approved criteria.

c. Ensuring sufficient numbers of officers respond to protect and to investigate the scene.

1. The Forensic Services Unit (FSU) shall photograph scenes involving serious injuries or deaths.

2. Minor injuries such as bruises, redness and scrapes, may be photographed at the direction of a supervisor using a department issued digital camera.

3. All digital photographs taken by FSU, or at the direction of a supervisor, shall be booked into evidence per current procedures.

d. Ensuring that all required electronic case reports, uniform citations, and other reports are completed, including in those situations in which the involved officer is unable to complete a report.

e. Completing and forwarding a BlueTeam report and related photographs.

1. Any supervisor who completes a BlueTeam report shall forward it, and all related documentation, to their immediate supervisor and shall copy the chain of command.

2. The Blue Team report shall be reviewed at each level and forwarded to the bureau assistant chief.
3. The bureau assistant chief shall forward the completed BlueTeam report, and related documentation, to the Public Integrity Unit.
4. Photographs taken by the Forensic Services Unit shall be forwarded by FSU to both the Public Integrity Unit and to the bureau to which the involved officer is assigned.
5. Photographs taken by other than FSU employees shall be forwarded with the BlueTeam report by the supervisor who completes the BlueTeam report.

G. RESPONSE TO RESISTANCE REPORTING AND REVIEW PROCEDURES

1. The department has established and maintains a reporting and review process for effective review and analysis. The reporting systems assist with identifying trends, improve employee safety and provide timely information for the department addressing use of force issues with the public.

2. A BlueTeam report shall be completed by an uninvolved supervisor when an officer:

- a. Points a firearm at another person.

Note: The below are the only exceptions to G. 2. a. above:

1. The on scene ERU Commander is responsible for completing a BlueTeam report when the unit conducts special operations, such as: barricaded persons, hostage situations, drug raids, felony arrests, and execution of search warrants. The report shall include all relevant details pertaining to subsection G. 2. a. above. Unless directed by the ERU Commander, individual supplements shall not be completed.
2. The on scene Special Investigations Section (SIS) supervisor shall be responsible for completing a BlueTeam report when the supervisor's unit conducts high risk drug raids, felony arrests, and the execution of search warrants. The report shall include all relevant details pertaining to subsection G. 2. a. above. Unless directed by the SIS supervisor, individual supplements shall not be completed.

b. Discharges a firearm as an application of force, or utilizes any other method of defense during a deadly physical force encounter.

c. Injures a suspect, or the suspect claims injury.

d. Strikes with, or uses an impact weapon.

e. Strikes a blow (including hands and feet), or exerts a level of control that is likely to

result in injury (i.e., forcefully taking a suspect to the ground).

f. Feels, for any reason, that a report may be beneficial at a later date.

g. Sprays a person with OC pepper spray or other chemical agent.

h. Uses a CEW to deliver a contact exposure to a person in any manner.

i. Discharges or uses any less-lethal weapon or intermediate weapon.

j. Uses the WRAP restraint.

3. A BlueTeam report shall also be completed whenever an officer's actions result in the death of another person.

4. The Public Integrity Unit shall maintain the BlueTeam report, accompanying documentation and photographs for a period of time as designated by the Chief of Police.

H. INTENTIONAL OR ACCIDENTAL DISCHARGES OF FIREARMS or USE OF OTHER WEAPONS

1. Intentional discharges of any firearm approved by the department and with which the officer has qualified and is authorized to carry, either on or off duty, shall be promptly reported to an on-duty supervisor, unless the discharge was in the course of training, qualification, or recreational use.

a. The supervisor shall complete the appropriate sections of a BlueTeam report and forward the completed report as outlined above in F 3 f.

2. Accidental discharges of any firearm, approved by the department and with which the officer has qualified and is authorized to carry, either on or off duty shall be promptly reported to an on-duty supervisor.

a. The supervisor shall complete the appropriate sections of a BlueTeam report and forward the completed report as outlined above in F 3 f.

3. Intentional or accidental use of any less-lethal weapon or intermediate weapon toward or on persons shall be documented by a supervisor on a BlueTeam report.

a. The supervisor shall forward the completed BlueTeam report as outlined above in F 3 f.

4. Accidental uses of less-lethal weapons or intermediate weapons not toward or on persons shall be documented by the officer, using currently approved methods, and forwarded to the officer's supervisor upon completion. The supervisor will forward the documentation to their immediate supervisor, copying the chain of command. The bureau assistant chief will forward the completed documentation to the Public Integrity Unit.

I. VEHICULAR ASSAULT

1. In an attempted “assault with a vehicle” situation in which an offender’s vehicle is being used as a deadly weapon, an officer’s primary response should be to move out of the path of the vehicle and attempt to move to an area that is not accessible to the vehicle, unless circumstances limit or prevent the officer from these means of escape.
2. Officers shall not shoot from, or at, a moving or stationary vehicle, except in extraordinary circumstances when it is necessary to return or initiate gunfire to protect human life (the officer and/or another person), where no other viable option is available, and when it does not create an unreasonable risk of harm to innocent persons.
3. To reduce the likelihood of an officer being dragged by a vehicle, officers are discouraged from reaching into a vehicle in an attempt to turn off the vehicle ignition, remove the keys, or forcibly remove an occupant from a vehicle that is still in motion or capable of moving.

J. TRAINING

1. All officers shall receive annual instruction in:
 - a. The Resistance Control Continuum
 - b. The proper application of force with the firearms and other weapons commonly available to officers
 - c. Laws, policies and procedures which govern the use of force
2. All officers have direct electronic access to this policy and shall adhere to the guidelines outlined in it, other department policies, and in the Kentucky Revised Statutes.