

SUBJECT: Response to Resistance		NUMBER: 820.1
DIRECTIVE TYPE: General Order	EFFECTIVE DATE: November 28, 2007	RE-EVALUATION DATE: Annually
DISTRIBUTION: Sworn Personnel	AMENDS/SUPERCEDES: 520.1 Use of Force	REVISED DATE: 10/22/03; 9/7/04; 3/5/05; 10/2/07, 11/08/11; 10/04/18; 11/19/19; 08/19/20
RELATED STANDARDS/STATUTES/POLICIES: CALEA 1.3.1 , 1.3.2 , 1.3.5 , 1.3.6 , 1.3.7 , 1.3.8 , 1.3.11 , 1.3.13 SCLEA 33.5.1/1.1.9-1.1.19 General Order 820.2, 820.3, 820.4		

PURPOSE: To provide the Town of Lexington Police Department with guidelines in response to resistive individuals.

POLICY: The Town of Lexington Police Department provides sworn officers the lawful authority to use objectively reasonable force in response to resistive behaviors in order to accomplish lawful objectives. This will be determined by comparing the severity of crime(s) at the time force is used; the immediate threat to the officer and/or public; and whether the subject was actively resisting or attempting to evade arrest by flight. These determinations will not be subjective in nature and will utilize the totality of circumstances involved. (CALEA 1.3.1)

I. Definitions: (CALEA 1.3.2)

A. Deadly Force

The use of firearms or any other weapons, instruments or physical actions capable of causing death or serious physical injury, regardless of intent or lack thereof.

B. Choke Hold

A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

C. Vascular Neck Restraint

A physical maneuver that restricts blood flow to the brain for the purposes of incapacitation.

D. Non-Deadly Force

Any force other than that which is considered deadly force.

E. Physical Force

The striking of a person by the use of a fist, hand, foot, baton or other object; or the application of any type of irritant or gas; or the application of any kind of hold or grip that tends to render a person unconscious, prevents or impedes the normal flow of blood, results in the breaking of the skin, the swelling of the body or any of the limbs.

F. Serious Physical Injury

Any bodily injury that creates a substantial risk of death; or which causes serious or permanent disfigurement; or results in the long-term loss or impairment of any bodily member or organ.

G. Reasonable Belief

A belief based upon the totality of facts or circumstances which the officer knows or should know would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

II. Deadly Force

A. Sworn personnel are authorized to use deadly force when:

- 1) Reasonable belief exists that the officer or another person's life is in immediate danger of death or serious physical injury. (CALEA 1.3.2)
- 2) Deadly force is justified **only** when objectively reasonable belief exist that all three of the following elements are present:
 - (a) **Ability:** The individual or subject possesses the capability or means to cause serious physical injury or death.
 - (b) **Opportunity:** The individual or subject is in a position to cause serious physical injury or death.
 - (c) **Jeopardy:** The individual or subject has made a threatening move or gesture that could cause serious physical injury or death.
- 3) To prevent the escape of a fleeing felon when the officer can clearly articulate probable cause which would indicate that the felon, if allowed to flee, would pose a significant threat of serious physical harm or death to the officer or others; or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm and if where feasible, some warning has been given.
- 4) Where feasible, officers shall identify themselves as a law enforcement officer and warn of their intent to use deadly force.
- 5) The use of any choke hold or vascular neck restraint is prohibited unless the use of deadly force is justified.

III. Non-Deadly Force

- A. Officers will escalate and de-escalate their response to resistance in a manner that is commensurate with established legal guidelines and procedures taught during departmental training.
- B. The department currently teaches and utilizes the Defensive Tactics “Force Continuum” concept.
- C. It is recognized that numerous factors affect the response that is necessary to control resistive behavior. As such, some situations will require officers to immediately use a higher level response without first attempting a lower level response. Some variables may include:
 - 1) Officer or subject size and/or gender.
 - 2) Environmental conditions:
 - (a) Number of officers and/or subjects
 - (b) Lighting conditions
 - (c) Use or display of a weapon
 - (d) Other environmental factors that could reasonably affect the situation
 - 3) The totality of the circumstances.
 - 4) Officers reaction time
- D. Handcuffs shall be double-locked and checked for fit with appropriate documentation of such within the incident report.

IV. Duty to Intervene

- A. Any officer present in a situation who reasonably believes that another officer is using force in violation of law or Department policy has a duty to intervene to stop the unlawful or inappropriate use of force as long as it is safe and reasonable to do so.
- B. Any officer, on or off duty, who witnesses or is made aware of an instance of excessive, unlawful or inappropriate use of force by another law enforcement officer of any agency has an obligation to report that situation to a supervisor or the professional standards function as soon as practical.

V. Law Enforcement Knife

- A. A strong, high quality knife is recognized as a valuable tool for law enforcement operations.

- B. Knives can be used for rescue operations or in other non-confrontational situations.
- C. A knife used as a weapon is considered a use of deadly force and subject to the requirements of section II of this policy.
- D. An officer may carry a pocketknife inside their trouser pocket provided blade length does not exceed four inches. (CALEA 41.3.4)
- E. A fixed blade is allowed when worn properly and concealed in a location such as, but not limited to, the limit duty belt, belt line, vest, vest carrier, and/or boot. The sharpened portion of the fixed blade should not exceed 3.5 inches, and the usage of such knives should be in accordance to the above subsections A, B, and C.

VI. Medical Treatment (CALEA 1.3.5)

- A. All officers shall provide within the scope of their training, immediate first-aid measures to anyone upon whom force was used when feasible.
- B. Whenever injury, whether obvious or implied, results from any response to resistive behavior, EMS will be summoned immediately to provide medical attention to the injured subject and/or officer.
- C. EMS will be requested to respond anytime a less-than-lethal weapon is used on a subject.
- D. EMS must be notified as soon as possible when needed. Should any scene still be considered active or “unsecured”, EMS will be requested to stand-by at a safe location to facilitate rapid arrival once the situation is brought under control

VII. Documentation and Reporting Requirements (CALEA 1.3.6)

- A. A written Response to Resistance report will be prepared and forwarded through the shift supervisor to the Office of Professional Standards in the following situations:
 - 1) Anytime a firearm is discharged outside of the firing range or for other than lawful recreational or competitive purposes.
 - 2) When the response to resistive behavior results or alleges to result in death, injury or property damage.
 - 3) When any less-than-lethal weapon is utilized.
 - 4) When physical force greater than soft empty hand control is used.
 - 5) Soft empty hand control that results in a takedown or tackle.
 - 6) When a firearm is pointed at any person.
 - 7) At the request of the on-duty supervisor.

- B. A photograph will be taken of any subject where a Response to Resistance report is required and attached to said report. Such photographs will include but not be limited to:
 - 1) Full body photograph
 - 2) Photograph of any injury or location of alleged injury.
 - 3) Photograph of any location contacted by a Less Lethal Weapon.
- C. All Response to Resistance reports shall be completed and submitted prior to the end of the tour of duty. If circumstances prohibit timely completion the reports shall be completed as soon as practical only with supervisory approval.
- D. All Response to Resistance reports will be reviewed by the Office of Professional Standards to determine whether: (CALEA 1.3.7)
 - 1) Department rules, policies and/or procedures were followed.
 - 2) Relevant policy was clearly understandable and effective in the situation presented.
- E. The report will also be forwarded to the Training Division to determine whether: (CALEA 1.3.7)
 - 1) Training standards and procedures were followed.
 - 2) Training is relevant and adequate for the situation presented.
- F. All findings will be forwarded to the Chief of Police.
- G. All Response to Resistance reports will be retained as required by state law.
- H. The Assistant Chief of Police, or his designee, shall conduct an annual review of all Response to Resistance reports with specific emphasis on training and/or policy needs. The findings of this review will be forwarded to the Chief of Police. (CALEA 1.3.13)

VIII. Departmental Response

- A. Death or Serious Physical Injury Incident
(Also see General Order 820.4)
 - 1) Whenever an employee's actions cause death or serious physical injury, the employee will be removed from line duty assignment during the administrative review process as described in section VI. Upon the completion of any such review the officer may be returned to their normal duty assignment upon approval by the Chief of Police. (CALEA 1.3.8)
 - (a) Officer involved shootings will be investigated by the State Law Enforcement Division (SLED) and the findings of these investigations will be submitted to the Chief of Police.

- (b) Officer's who are involved in a shooting incident will be placed on administrative leave with full compensation pending the completion of any investigation.
 - 2) Officer's may, at the discretion of the Chief of Police, be required to obtain a release from a mental health professional after involvement in an incident resulting in death or serious physical injury.
 - 3) The Department shall conduct an administrative investigation of any employee involved incident in which death or serious physical injury results.
- B. The on-duty shift supervisor will be immediately summoned to the scene and shall initiate an on-scene investigation in the following situations:
- 1) Anytime a firearm is discharged except as outlined above in section [VII.A.1.](#)
 - 2) When a response to resistive behavior results in death, injury or property damage.
 - 3) When a subject complains that an injury has been inflicted by an officer.
 - 4) Anytime a less lethal weapon is deployed in response to resistance.

IX. Training

- A. The Lexington Police Department will conduct annual training and review of the Response to Resistance policy for all officers. (CALEA 1.3.11)
- B. Officers shall receive documented annual training concerning hard and soft empty hand control from a certified defensive tactics instructor. (CALEA 1.3.11 a)
- C. Officers will be required to pass written and proficiency tests during this training.