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Effective Date: July 1997	Revision Date: June 2020
Amends/Supercedes: 900.50/1000.90	Approved by: Chief Kevin Higdon
Meets Accreditation Standard:	1.3, 1.4, 1.7, 1.11

Section 1000.50 Response to Resistance

PURPOSE

It is the intent of the Shively Police Department that all members recognize the importance of human life, respect basic human rights and have an absolute intolerance for abusive treatment of all persons.

Police Officers are sometimes confronted with situations requiring the use of reasonable force in order to carry out their lawful duties, protect the public, protect other Police Officers and protect themselves.

Realizing the potential for criminal and civil litigation, whenever force is used, scrutiny of each use of force must be evident. Each member of the Shively Police Department shall be conscious of the criminal, civil and vicarious liability created by the improper use of force.

The administration shall hold each member of the Shively Police Department accountable to maintain a standard of proficiency with the techniques and equipment that is utilized along the use of force continuum.

It is the intent of this policy to establish guidelines in using the appropriate applications of force when it is logical, reasonable, and necessary to do so.

DEFINITIONS

Control Hold: A technique with a low probability of injury to the Officer or the person it is used upon. Utilized to gain and/or maintain physical control of a person.

Electronic Control Device (ECD): Less lethal devices are designed to disrupt a person's central nervous system by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override a person's voluntary motor responses.

Deadly Force: Force which is used with the purpose of causing death or serious physical injury.

OC Spray: Department approved and issued Oleoresin Capsicum solution or other department approved chemical agent.

Officer: Any full or part-time member of the police department that is a sworn officer.

Physical Force: Force used upon or directed towards the body of another person.

Reasonable Belief: When the facts or circumstances the Officer knows are such to cause an ordinary and prudent Officer to act or think a similar way under similar circumstances.

Serious Physical Injury: A bodily injury that creates a substantial risk of death, creates a prolonged physical impairment or prolonged disfigurement or creates a prolonged loss or impairment of a bodily organ.

Special Impact Munitions Systems: Departmentally approved and issued launcher and projectiles with the ability to incapacitate with reduced potential for death or serious physical injury.

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FORCE CONTINUUM

An Officer shall, to the extent possible, utilize an escalating level of force (force continuum) when using force, however an Officer is not required to always progress from the lowest level of force (Officer's presence) to the highest level (Deadly Force). The degree of force used must be reasonable in correlation to the circumstance.

The levels of force in the continuum are (lowest to highest):

- Level One: Officer presence.
- Level Two: Verbal commands.
- Level Three: Soft empty hand control and restraining devices.
- Level Four: OC spray, chemical agents, and electronic control weapons.
- Level Five: Hard empty hand
- Level Six: Impact weapon
- Level Seven: Deadly force

USE OF PHYSICAL FORCE

When an Officer is confronted with a situation that may necessitate the use of physical force, he/she should call for additional Officers when practical.

When physical force is used, an Officer shall use only the level of force he/she believes necessary to control the subject. Once the subject is under control, the use of force is restricted to that which is reasonable to maintain control.

Officers are not expected to allow any suspect to be the first to use and gain an advantage in a physical confrontation. Officers are not expected to engage in prolonged hand to hand combat before utilizing a higher level of force to bring a resisting or fighting subject under physical control. The goal in any use of force situation is to quickly and safely neutralize the resistance and/or threat with minimal risk of injury to the Officer(s) and the subject(s) involved.

An Officer can use force, including deadly force, when he/she believes such force is reasonable in order to defend himself/herself.

An Officer can use force when acting under the official authority, he/she is making or assisting in making an arrest he/she:

- 1) Believes the force is necessary to make the arrest.
- 2) Believes the arrest is lawful.
- 3) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested.

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An Officer can use force:

- 1) To prevent the escape of an arrested person when the force could justifiably have been used to make the arrest under which the person is in custody.
- 2) When moving or removing any person who is obstructing a lawful police action in such a manner that the lawful police action cannot be accomplished.
- 3) To prevent a person from committing suicide inflicting injury upon himself/herself.

An Officer can use force, including deadly force when:

- 1) The Officer, making an arrest, is authorized to act as a peace officer; AND
- 2) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; AND
- 3) The Officer believes that the person to be arrested is likely to endanger human life unless apprehended without delay.
- 4) The discharge of “warning shots” is prohibited.

An Officer can use force, including deadly force when:

- 1) The Officer is authorized to act as a peace officer; AND
- 2) Believes the force is necessary to prevent the escape of a subject from jail, prison or other institution for the detention of persons charged or convicted of a crime.

LESS LETHAL OPTIONS

Officers, when in uniform, shall wear a department issued OC spray canister, a department issued ECD and a department approved impact weapon. However, if an Officer is physically unable to fit all the equipment on his/her duty belt, or if wearing all three weapons causes discomfort or problems with weapon accessibility, they shall carry the ECD and OC spray after obtaining approval from the office of the Chief of Police. If not carried on the duty belt, the impact weapon must be readily available in the driver’s compartment of the Officer’s department issued vehicle.

On duty plain clothes Officers shall have a department issued OC spray canister, a department issued ECW and a department approved impact weapon readily available in the driver’s compartment of the Officer’s department issued vehicle.

USE OF OC SPRAY AND CHEMICAL AGENTS

Officers are permitted to carry and use only OC spray and chemical agents approved by the department. The use of OC spray and chemical agents should be consistent with departmental training.

The use of OC spray and chemical agents is authorized in circumstances when the Officer reasonably believes that force is necessary to overcome resistance by a subject.

OC spray and chemical agents may also be used:

- 1) Subject refusing to obey an officer’s commands through active resistance.
- 2) Aggressive subject who is combative and presents a physical danger to himself/herself, the Officer or any other person.
- 3) Prisoners who attempt to escape, injure themselves or damage property.

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USE OF DUAL-PURPOSE CHEMICAL DISPERSAL SYSTEM AND LESS LETHAL IMPACT WEAPONS

Officers who have received training on and have been issued a .68 caliber pepper ball system may utilize the pepper ball system for a dual purpose, both as a chemical agent dispersal system and as a less lethal impact weapon. Unlike specialty impact munitions systems, (e.g. 40 mm launcher/sock round), the pepper ball guns, when used as an impact weapon, should not cause death, even when striking prohibited areas. However, the head, neck and face should be avoided unless exigent circumstances exist.

POST USE OF OC SPRAY AND CHEMICAL AGENTS

Officer will ensure that the contaminated areas are treated in a manner consistent with the manufacturer's recommendations and departmental training as soon as practical.

Officer will call for emergency medical personnel to respond and decontaminate the subject the OC spray or chemical agent was used upon. Any Officers or other persons exposed to the OC spray or chemical agents should be provided the opportunity to be checked by emergency medical personnel as well.

USE OF ELECTRONIC CONTROL DEVICE (ECD)

Officers are permitted to carry and use only the ECD's that have been issued by the department. The use of an ECD shall be consistent with departmental training and is authorized when an Officer reasonably believes it meets the degree of force necessary to overcome resistance by a subject.

In the event that an Officer must utilize an ECD not issued to him/her by the department (One issued to another Officer or from another police department) due to circumstances beyond his/her control he/she must:

- 1) Only utilized a make/model of ECD which he/she has been properly trained by the department to use.
- 2) Document in memorandum form, to the Office of the Chief of Police, which ECD was utilized and why the assigned ECD was not utilized.

The potential exists for ECD's to cause serious physical injury when striking in the eyes, neck, head, and breast and/or groin areas. Officer should avoid targeting these areas of the body unless the situation justifies a higher level of force. The ECD device shall be aimed in a manner as to where the probes of the cartridge, once deployed, will strike the subject in the center mass region if possible.

Officer should warn the subject of the intention to use the ECD when feasible. Before deploying the ECD the officer should, when feasible, announce his/her intentions to others present by shouting the words "Taser, Taser!". When using the ECD, the Officer shall only utilize the device the least number of times and no longer than is reasonable to accomplish the legitimate operational objective. The subject should be secured as soon as practical while disabled by the ECD to minimize the number of

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deployment cycles required. It is important that the user of the ECD focus on the induced impairment period as a window of opportunity during which physical restraint procedures should be initiated whenever practical.

When using an ECD, the Officer should continually assess each application in either the probe or stun mode to determine if further applications are warranted or a different tactic should be used. Officers should strongly consider alternative methods of resistance control if the ECD is not effective in accomplishing the legitimate operational objective.

Use of an ECD is authorized for, but not limited to:

- 1) Subject refusing to obey an officer's command through active resistance.
- 2) Aggressive subject who is combative and presents a physical danger to himself/herself, the Officer or any other person.
- 3) Prisoners who attempt to escape, injure themselves or damage property.

The ECW should not be used:

- 1) When the Officer knows the person has come into contact with flammable liquids or is in a known flammable atmosphere.
- 3) When the suspect is in an elevated position where a fall is likely to cause serious injury or death.
- 4) When the suspect is in a location where it is known the subject could drown.
- 5) When a suspect is operating a motor vehicle and engine is running.
- 6) When a prisoner is handcuffed, unless the prisoner is aggressive against the Officer or another person or attempting to escape.

ECD (TASER) TRAINING

Only Officers that have successfully completed the required departmental Taser training will be authorized to carry and/or use a Taser. The training will include instruction in the proper wearing, maintaining and deployment of the departmental issued Taser.

CARRYING THE ECD (TASER)

The Taser will be carried only in the holsters authorized and issued by the department.

The Taser will be worn on the opposite side of his/her firearm on the gun belt, or mounted to the ballistic molle vest.

The Taser will remain holstered at all times unless it is being inspected, tested or deployed.

ECD (TASER) DAILY INSPECTIONS

Officers will conduct a spark test during each tour of duty to ensure that the Taser is charged and functioning properly. This test should be performed at the beginning of the shift whenever possible. Officers shall ensure that there is not a cartridge loaded during the spark test and that the Taser is not pointed in the direction of others.

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If the Taser's digital power magazine (DPM) reaches 20% or lower, the DPM shall be replaced. The used DPM will be exchanged for a new DPM. The used DPM will be retained by the department for future training usage.

ECD (TASER) STORAGE

The Taser is a less lethal weapon capable of causing serious physical injury therefore each Officer must ensure that it is properly secured at all times (on duty and off duty). Each Officer shall ensure that the Taser is stored in such a manner as to protect against access by unauthorized person(s). The Taser shall not be left unattended unless properly secured.

POST USE OF ELECTRONIC DEVICES (ECD)

Officers only remove the probes in a manner consistent with departmental training. During the removal of the probes the Officer will wear protective gloves. The probe puncture wounds will be cleaned using a department (or EMS) issued swab.

In situations where the ECD probes are in the head, neck, breast, groins or buttocks the probes will not be removed by the Officer but shall ensure that certified medical personnel perform the removal of the probe(s).

Used ECD cartridges must be packaged properly and submitted to the property room. Proper packing is accomplished by inserting the sharp ends of the probes into the spent cartridge, wrapping the spent cartridge in protective gloves (worn during probe removal) and placing into a sealed envelope label "Biohazard". A property tracking form must be completed. No other property may be submitted under the assigned property number except ECD cartridge(s) used by the submitting officer.

After an Officer uses his/her ECD, the on duty Commanding Officer shall retrieve the weapon from the Officer for download of the data from the ECD. The on duty Commanding Officer shall locate the AFID tags from the spent cartridge(s) and photograph them and the tased subject. The downloaded information shall be printed and attached to the Use of Force Report.

Officers must turn in a used ECD cartridge to the property room before a new ECD cartridge can be issued to them.

USE OF IMPACT WEAPONS

Impact weapons are authorized as a means of:

- 1) Physical restraint or control.
- 2) Defense of an Officer.
- 3) Defense of another person.

Intentional strikes to the head, neck, throat or clavicle shall be avoided unless the Officer believes that deadly force is justified.

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USE OF DEADLY FORCE

The justification for the use of deadly force against another person by an Officer must be limited to what reasonably appears to be the facts known or perceived by an Officer under the circumstances. Deadly force, as with any use of force, should not be resorted to unless reasonable alternatives have been exhausted, would clearly be ineffective or exigent circumstances exist.

Deadly force is authorized in defense of oneself or another when an Officer reasonably believes, based upon the facts and circumstances known by the Officer, that the subject the deadly force is used upon poses an imminent threat of:

- 1) Death or serious physical injury to the Officer or another person; or
- 2) Kidnapping; or
- 3) Sexual intercourse compelled by force or threat.

Deadly force is authorized to apprehend a felony suspect when the fact and circumstances known or perceived by an Officer it is reasonable to believe:

- 1) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; AND
- 2) It is likely that the person to be arrested will endanger human life unless apprehended without delay.

Deadly force is authorized to prevent the escape of an arrested person when:

- 1) Deadly force could be justified to make an arrest under which the persons is in custody: AND
- 2) The Officer believes the person is likely to endanger human life unless apprehended without delay.

Officers are authorized to discharge a firearm for the following purposes:

- 1) In defense of human life; including the Officer's life.
- 2) In defense of any person in imminent danger of serious physical injury or death.
- 3) In defense of oneself or another person from imminent kidnapping or sexual intercourse compelled by force or threat.
- 4) As necessary against any animal that is gravely injured or posed a perceived threat to persons when no other disposition is practical and the safety of persons has been given prime consideration.
- 5) Training, practice (at a proper site or facility) and qualifications.

When an Officer discharges a firearm he/she shall remain cognizant of the following:

- 1) The direction in which the firearm is discharged.
- 2) The danger of discharging a firearm while running or moving.

Officers shall not discharge a firearm from or at a moving vehicle unless necessary to return gunfire to protect human life and then it does not create an unreasonable risk of harm to innocent persons.

Warning shots are prohibited.

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If practical, a verbal warning should be given before the use of deadly force.

Deadly force is not authorized to apprehend a fleeing misdemeanor or non-violent felony suspect.

The Officer using deadly force must be able to articulate his/her justification for using deadly force.

“Choke holds” or any technique that targets a person’s neck/throat or restricts the airway of a person shall be prohibited unless the use of deadly force is justified and only as a last resort

RESPONSE TO RESISTANCE REPORTING

An Officer that uses force against another person must notify the on-duty supervisor and complete a Response to Resistance Report when:

- 1) The subject has a loss of consciousness before, during or after the response to resistance.
- 2) The response to resistance causes any visible or apparent physical injury (to the subject, an officer or another person); or
- 3) A person claims to be injured as a result of the response to resistance; or
- 4) The response to resistance involved the use of OC spray or chemical agents; or
- 5) The response to resistance involved the use of an ECD; or
- 6) The response to resistance an impact weapon; or
- 7) The response to resistance involved the use of deadly force; or
- 8) The response to resistance involved the use of any object or weapon; or
- 9) The response to resistance involved a strike delivered by the Officer using his/her head, hand, fist, elbow, knee, foot or other body part; or
- 10) The response to resistance causes a person to suffer a blow to the head; or
- 11) The response to resistance involves moving or dragging a struggling subject from one place to another: or
- 12) The response to resistance causes property damage (including subject’s clothing); or
- 13) The response to resistance is applied to a handcuffed subject; or
- 14) All intentional and accidental firearms discharges (regardless of duty status) except for training, firearms range activities and lawful hunting).

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DUTIES OF OFFICER(S) AT A RESPONSE TO RESISTANCE SCENE

The Officer responding to the resistance shall:

- 1) Request medical treatment for an injured person(s).
- 2) Make every effort to relax, adjust or modify any restraint, including empty hand holds if the suspect appears or claims to not be able to breathe.
- 3) Allow non-involved Officer(s) to take custody and control of the subject against which the force was taken.
- 4) Notify the on-duty Commanding Officer.
- 5) Complete a Response to Resistance Report.

DUTIES OF COMMANDING OFFICER AT A RESPONSE TO RESISTANCE SCENE

The on-duty Commanding Officer (or OIC) shall:

- 1) Respond to the scene upon notification of a response to resistance.
- 2) Ensure medical treatment has been provided to any injured person(s).
- 3) Ensure the suspect is able to breathe properly.
- 4) Conduct a preliminary investigation into the response to resistance.
- 5) Photograph all injuries (included alleged injuries).
- 6) Photograph all property damage.
- 7) Photograph the subject against whom the response to resistance was used in order to document all injuries, alleged injuries and lack of injuries. In all cases of Resisting Arrest and Assault 3rd, stand up pictures shall be taken of front, rear and both sides of the suspect. In the event that the suspect will not cooperate, document that fact and take the best pictures taking into account the suspect's lack of cooperation. Do not use physical force to force suspect to pose for pictures.
- 8) Interview and document witnesses present.
- 9) Download ECD data, if use of force involved ECD.
- 10) Collect the firearm and magazine if use of force involved firearms discharge.
- 11) Collect all In Car Recording videotapes and or disc from units present at the time of the response to resistance.
- 12) Review the Response to Resistance Report.
- 13) Forward the Response to Resistance Report and applicable documents to the Office of the Chief of Police.