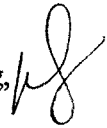


SIoux CITY POLICE DEPARTMENT POLICY DIRECTIVE

SUBJECT: RESPONSE TO RESISTANCE
NUMBER: 4.01
APPROVED BY: Douglas A. Young, 
Chief of Police
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4.01 RESPONSE TO RESISTANCE

4.01.01 Response to Resistance – Policy Statement

The policy reflects a logical and legal sequence of cause and effect based on the perception of risk by the officer. The officer considering force options is capable of escalation or de-escalation and engagement or disengagement during a confrontation. Levels of resistance faced by an officer are determined by the subject's level of intent to resist. Supreme Court decisions, including *Graham v. Connor* (1989), have held that officers' decisions towards force utilization must be judged from the "perception of the reasonable officer", within the circumstances that are "tense, uncertain, and rapidly evolving".

Levels of response by an officer are based upon the appropriate enforcement elective, directed at the subject's actions within the confrontation. Once an officer determines that force must be used, the level of force will be dependent upon the officer's perception of resistance. Each officer's perception of danger and the level of resistance will be based upon their past training, experience, and knowledge of physical control techniques, as well as Department policy directives and laws addressing use of force.

Sioux City Police Department members will treat all persons, regardless of their involvement in a situation, with respect, courtesy, and the dignity due any human being, to the extent that such treatment is allowed by the subject's actions. They will maintain a professional bearing at all times. They will not be argumentative or engage in acts that might incite a subject to become physically aggressive. Officers will never use a greater degree of force than that which is lawful and reasonable for the specific situation. Such reasonable force may be used:

1. to affect an arrest,
2. to overcome unlawful resistance,
3. to prevent an escape from custody,
4. to neutralize an unlawful assault upon the officer or another person.

The use of physical force will end immediately when:

1. resistance ceases,
2. resistance has been overcome.

Emphasis will always be upon obtaining control over the suspect(s) rather than forcing submission. Members will not abuse any person they contact or take into their custody or control.

Justification for a response to resistance is limited to what reasonably appears to be the facts known or perceived by the officer at the time he decides to use such force. Facts unknown to the officer, no matter how compelling, cannot be considered in later determining whether the action was justified.

Officers responding to resistance must be able to articulate the need and justification for their response and the reason(s) why the level of force utilized was selected. Full disclosure of the circumstances requiring the response to resistance, and the type and extent of force, will be thoroughly documented in a Supplemental Report completed in conjunction with an Incident Report. A separate Sioux City Police Department Incident Report will be completed if property is damaged or if injuries are suffered by the officer.

The following sections of this Policy directive will examine the various types of force that may be appropriate in some situations. They will be considered on the basis of their relative positions to the response to resistance options referenced earlier, from the least to the greatest level of force.

4.01.02 Response to Resistance – Legal Restrictions

The Iowa Code, Chapters 704 and 804, describes those circumstances in which the use of force is justified. These provisions and related case law will establish the only legally binding restrictions regarding the use of force by members. The policy document is explanatory in nature and is intended as a guide for departmental personnel. It will not be considered or construed to create a higher legal standard than provided by law.

4.01.03 Response to Resistance Options

Verbal Control – Response to Resistance Level 1

The manner and form in which a member speaks to an individual can be an effective means of exerting control over the situation. Verbal control may be in the form of advice, persuasion, admonitions, or orders. The volume and tone of the officer's comment may also allow a course of escalation, if necessary, and when properly utilized, can be an effective tool to assume control over a situation without having to progress to any higher level of force.

Escort – Response to Resistance Level 2

The majority of arrests handled by officers of this Department are made peacefully; the arrestee is handcuffed, searched, and transported without incident. However, in some situations, the subject may exhibit some reluctance in complying. Under these

circumstances, some form of physical maneuvering may be required in order to escort the individual from one location to another.

Control and Compliance – Response to Resistance Level 3

On occasion, police officers are faced with an uncooperative individual or one who refuses to be placed in custody. Incidents of this nature require officers to use some combination of strength, leverage, take downs, holds, and come-alongs with sufficient force to make the lawful arrest without unnecessarily aggravating the situation. The object of this level of force is to gain control and compliance while minimizing the risk of injury to the:

1. officer,
2. person being placed in custody, or
3. innocent bystanders.

The use of the carotid restraint or other “choke holds” as a method of control are specifically and strictly prohibited for use by Sioux City Police personnel.

Personal Chemical Agents – Response to Resistance Level 4

This level of force involves the use of personal chemical agents for the purpose of overcoming the resistance of a violent or combative person to be taken into custody. The uses of these implements by officers are permissible only to defend themselves or others against unlawful assaults or to overcome resistive behavior.

The only personal chemical agent permissible for carry by Sioux City Police Officers is Oleoresin Capsicum (OC) delivered in a non-flammable liquid medium. Personal chemical agents may be carried and utilized by members of the department only after being certified in their use pursuant to departmental training standards.

Unarmed Striking Techniques/Taser/K-9 – Response to Resistance Level 5

This level of force involves the use of unarmed striking techniques, authorized Tasers, and K-9's. Unarmed striking techniques involve the use of the officer's fists, hands, elbows, knees, or feet, etc. in striking the adversary. The use of Tasers or these striking techniques may be used by officers to defend themselves or others against unlawful assaults, overcome resistive behavior, and/or take combative persons into custody. Tasers will be used in accordance with Policy Directive 4.02. Police K-9's will be used in accordance with Policy Directive 8.03.

Tactical Chemical Agents and Distraction Devices – Response to Resistance Level 6

Tactical chemical agents may be utilized as an appropriate and effective response to resistance in certain circumstances. They are particularly effective as a substitute for or as a precursor to an armed assault of a structure being used by a barricaded suspect. Only trained members of the Sioux City Police Department's SWAT Team are authorized to deploy large scale chemical agents and/or distraction devices, and then only in conformance with the SWAT Team operating procedures relative to those topics.

Striking Implement – Response to Resistance Level 7

The PR-24 and ASP will only be used in accordance with current departmental training standards.

The use of the PR-24 and ASP as a striking implement will be restricted to quelling physical confrontations.

Uniformed Sergeants who are trained in the use of the Defensive Technology Model 1325 40mm Less Lethal Launcher are authorized to deploy said weapon if the situation warrants its use (Refer to Policy Directive 4.03.17 for applicable ammunition).

The Special Weapons and Tactics Team has been authorized to use low lethality munitions. Currently, that is the 37mm and 12 gauge bean bag round. Only those officers who have been certified in its use may deploy the device. The use of low lethality munitions is covered under SWAT Standard Operating Procedure UNS-S01.

All other forms of striking or punching weapons are specifically prohibited for carry or use by Sioux City Police Officers under color of authority. Such prohibited devices include, but are not limited to: sap gloves, saps, brass knuckles, blackjacks, nunchakus, kubotans, and yawara sticks.

Pursuit Intervention Technique (P.I.T.) – Response to Resistance Level 8

The P.I.T. maneuver will only be used by officers trained in its use and in accordance with Policy Directive 5.11.11. The maneuver will only be used with the approval of a supervisor when all other reasonable means of apprehension have been considered and/or deemed inappropriate and it becomes necessary to protect the lives of officers or others from the use or threat of deadly force.

Deadly or Potentially Deadly Force – Response to Resistance Level 9

Police Officers of the Sioux City Police Department are authorized to use deadly force:

1. when the officer reasonably believes it is necessary to defend himself or a third person from serious injury or the use of deadly force;
2. when the person has used or threatens to use deadly force in the commission of a felony and the officer reasonably believes that an imminent danger of serious injury to any person exists and/or the use or continued use of deadly force by the suspect exists; or
3. when the officer reasonably believes the person would use deadly force against any person unless immediately apprehended.

“Serious injury means disabling mental illness, or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, and includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones of children under the age of four years”, as defined by Section 702.18 of the Code of Iowa.

"Reasonable belief" is defined as the facts or circumstances the officer knows or should know that are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

Regardless of the nature of the crime of the legal justification for the use of deadly or potentially deadly force, officers are reminded that their basic responsibility is to protect the public. Members are instructed to be particularly cautious when using deadly or potentially deadly force under conditions that would subject innocent bystanders to substantial danger.

When the use of a firearm as a deadly or potentially deadly force is justified, the policy of the Sioux City Police Department is that sworn personnel should fire for "center of mass of the target presented" whenever possible and appropriate. This policy is for the purpose of maximizing the probability that the fired projectile will incapacitate the subject and cause him to immediately cease his hostile activities.

4.01.04 Medical Attention Required

Officers will transport or arrange for an ambulance to transport a subject to a medical facility if:

1. the suspect has suffered unknown but potentially serious injuries at the hands of other involved parties prior to the arrival of the police;
2. the force utilized by police personnel caused any more than superficial injuries;
3. chemical agents were utilized;
4. less lethal munitions are utilized;
5. the suspect suffers K-9 bites;
6. the suspect suffers gunshot or other wounds inflicted by the use of deadly or potentially deadly force; or,
7. due to the force utilized, there is a reasonable risk of internal injuries that may not initially manifest themselves in any visible fashion.

The suspect will be examined, treated, and either admitted or a written medical release obtained from the attending physician prior to the suspect being booked. If the suspect refuses medical attention at the medical facility, the officer will request the attending physician note the refusal in the medical records made by the physician and obtain a written medical release. Additionally, the officer will note the medical attention or declination of medical attention in his report of the incident, along with the name of the attending physician.

Subjects who have been Tased and the Taser prongs have struck the face, neck, or groin will only be removed by fire/rescue or medical personnel. Taser prongs that have struck the female breast will only be removed by a female officer, fire/rescue or medical personnel. Officers may also request fire/rescue or medical personnel to remove Taser prongs if he/she believes it is necessary.

4.01.05 Prohibited Use of Weapons

Sioux City Police Officers are prohibited from discharging their weapons under the following circumstances:

1. when it appears that an innocent bystander or other officers are likely to be injured by the officer's gunfire;
2. when the subject has committed only a misdemeanor or a traffic violation;
3. solely to prevent the destruction or theft of property;
4. to halt a person who simply runs away to avoid arrest;
5. or at a moving vehicle, unless the circumstances specifically apply to 5.11 of the Policy Directives Manual.

Warning shots will not be fired under any circumstances.

4.01.06 Other Authorized Uses of Police Firearms

In addition to the previously listed situations, Sioux City Police Officers are permitted to fire their police firearms under the following circumstances:

1. for practice or recreational shooting in an area where firing a weapon is both safe and lawful;
2. upon the command of a Sioux City Police Department firearms instructor during a legitimate department firearms training session or qualification being held in an approved firearms training facility;
3. in order to destroy an animal that is obviously vicious or dangerous and cannot otherwise be captured or prevented from killing or seriously injuring the officer or others (supervisory approval will be obtained in advance whenever possible);
4. or to destroy an animal that is so badly injured that humanity requires its relief from further suffering and other reasonable and viable alternatives do not exist. (Supervisory approval will be obtained in advance whenever possible.) If the animal is domesticated or privately owned livestock, reasonable attempts should be made to contact the owner of the animal, if known, and obtain the owner's consent prior to destroying the animal.

4.01.07 Guidelines for Destroying an Animal Using a Firearm

The following guidelines regarding the use of a firearm to destroy an animal are strongly recommended:

Take steps to ensure the safety of all citizens, property, and other animals by moving the animal that is to be destroyed to an area of relative safety and out of the public view, if possible. This area may be a vacant lot, rear yard, or a roadway median strip. The primary concern is the animal should be placed on the ground, not the pavement or other hard surfaces, in order to avoid a possible ricochet of the projectile. Remember to take into account the possibility of over-penetration, particularly on smaller animals, and, therefore, be aware of what lies behind the intended target.

Shoot the animal from close range (5-10' maximum) if possible, and shoot down into the animal so if the projectile exits the animal's body, it will enter the ground. Shoot the animal in the brain to minimize suffering. However, if the possibility of rabies exists or the animal has bitten someone, the brain will be needed for testing. On those occasions, the animal should be shot in the chest cavity, directly behind either front leg.

Whenever it is necessary to destroy an animal with the use of a firearm, a written and supplemental report will be completed detailing the occurrence.

4.01.08 Other Weapons of Last Resort

The Department recognizes in some circumstances, the situation may dictate pressing other implements into service as weapons. These might include the officer's flashlight, metal clipboard, knife, or even a motor vehicle, etc. However, use of such implements as weapons should be viewed as weapons of last resort. Use of such devices as weapons will be closely examined, as well as the degree of exigency present in the situation, the totality of the circumstances, and the existence or absence of other acceptable alternatives.

4.01.09 Documentation

Response to Resistance Report

Officers of the Sioux City Police Department who utilize a Level of Force greater than 3 will complete a Departmental Response to Resistance Report. The "Details" section of the report will include a narrative description of the incident detailing the actions of both the suspect and the officer(s). Each officer employing a Level of Force greater than a 3 during the incident will complete and sign a separate Response to Resistance Report.

Officers who utilize Deadly or Potentially Deadly Force (Level 9) will be required to complete a Response to Resistance Report in a timely manner. The "Details" section of the report will be left blank and covered in a supplemental report or video taped interview.

A Supervisor or Command Officer will be notified to respond to any incident involving a response to resistance greater than level 3. The Supervisor or Command Officer will review and sign the Response to Resistance Report. If a Supervisor or Command Officer is unable to respond to a response to resistance incident, it should be noted on the report. The completed report will be forwarded through the chain of command to the Chief of Police. A Watch Commander will assess all relevant facts and circumstances surrounding the incident and render a conclusion as to whether the response to resistance violates any departmental policy or directive. Each member of the chain of command will review and sign the form if they concur with the conclusions and recommendations. However, if the command officer does not concur, he will prepare a memorandum to the Chief stating his concerns and alternate recommendations and attach his memo to the form for the next level of review.

The Response to Resistance Report is strictly an internal management document. As such, copies of the report will not be attached to the regular Department Incident or Supplemental Report and

will not be released to any person, organization, or entity outside of the Sioux City Police Department without specific permission of the Chief. The Professional Standards Lieutenant will conduct an annual analysis of the Response to Resistance Reports. A review of incidents of force may reveal patterns or trends that could indicate training needs and/or future policy modifications.

In addition to the required Response to Resistance Report, the Chief will be directly notified of any non-training-related discharge of a firearm. Such notification will be made by the Watch Commander on duty at the time of the incident. If the firearm discharge is for the purpose of destroying an animal and no unusual circumstances occurred, a copy of the report (including all supplementals) forwarded directly to the attention of the Chief will be deemed as proper notification. However, if unusual circumstances occur, or if the discharge of the firearm is either unintentional or is an intentional discharge for any other reason, the on-duty Watch Commander will immediately and directly notify the Chief by telephone or in person.

4.01.10 Civilian Employees

The Sioux City Police Department will not authorize or train civilian employees to use lethal or less-lethal weapons, escorts, control and compliance, or unarmed striking techniques. Civilian employees are strictly prohibited from using P.I.T.

Should an on-duty civilian employee encounter a subject acting aggressively, he/she will make every effort to remove himself/herself and others from the situation and notify officers. If no reasonable alternative exists but to defend oneself or others, he/she will do so in accordance with the "reasonable person" standard provided in Iowa Code 704. A supervisor will be notified as soon as practical.

These incidents will be thoroughly investigated and documented with an incident and supplemental report. Civilian employees whose action(s) result in death or serious injury of another will be administratively relieved from duty in accordance with Policy Directive 3.04.