



# Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: <b>Response to Resistance,          General Guidelines / Options</b>	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 601
		Effective: 6-23-2010
		Page 1 of 5
<p><i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i></p>		
Reference: SDCL 22-18-2; 22-18-3; 22-1804; 23A-3-5; <b>18 U.S.C. § 1365 (h) (3)</b>		

1. Purpose:

- 1.1. The purpose of this policy is to direct officers of the Sioux Falls Police Department in the appropriate use of force.

2. Policy:

- 2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in use of force events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.

3. Definitions:

- 3.1. **Deadly Force** – Any force that is likely to cause serious bodily harm or death.
- 3.2. **Imminent** – Impending or about to occur.
- 3.3. **Non-Deadly Force** – All uses of force other than those that is likely to cause serious bodily harm or death.
- 3.4. **Objectively Reasonable** – The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer using the force is presented.

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- 3.5. **Reasonable Belief** – Reasonable belief means that the person concerned, acting as a reasonable person believes that the prescribed facts exist.
- 3.6. **Serious Bodily Harm: (18 U.S.C. § 1365 (h) (3))** – The term "serious bodily injury" means bodily injury which involves
  - 3.6.1. a substantial risk of death;
  - 3.6.2. extreme physical pain;
  - 3.6.3. protracted and obvious disfigurement; or
  - 3.6.4. protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

4. Procedure:

- 4.1. When the use of force is necessary in the course of their duties as law enforcement officers, all officers of this department shall strive to use the techniques obtained by approved departmental training. However, while techniques obtained by approved departmental training are preferred, circumstances may justify an officer's use of other techniques. While using departmentally approved training techniques or other technique, all officers' reactions to the subject's actions shall be appropriate and only that reasonably necessary based on the totality of the situation. Every situation is a continuous engagement and officers need to continually evaluate the propensity for injury and have the ability to disengage or escalate at any time.
- 4.2. In determining the appropriate level of force, officers should apply the levels of force under the department's trained use of force options along with the following three factor test:
  - 4.2.1. How serious is the offense the officer suspected at the time the particular force used?
  - 4.2.2. What was the physical threat to the officer or others?
  - 4.2.3. Was the subject actively resisting or attempting to evade arrest by flight?
- 4.3. The legal level for the use of force is set by three factors:
  - 4.3.1. Federal Law
  - 4.3.2. State Law
  - 4.3.3. Departmental Policy and Procedure
- 4.4. **South Dakota statutory law provides:**
  - 4.4.1. To use, attempt, or offer to use force or violence upon or toward the person of another is not unlawful when necessarily committed by a public officer in the

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performance of any legal duty or by any other person assisting him or acting by his direction.

4.4.2. Under the South Dakota statutory authority, the force used by a police officer is unlawful when it becomes greater than necessary to carry out his duties.

4.4.3. An arrest is made by an actual or attempted restraint of the person arrested or by his submission to the custody of the person making the arrest. No person shall subject an arrested person to more physical restraint than is reasonably necessary to affect the arrest. Any person making an arrest may take from the arrested person all dangerous weapons and property as defined by state law, which the arrested person may have about his person.

4.4.4. To use or attempt to use or offer to use force or violence upon or toward the person of another is not unlawful if necessarily committed by any person in arresting someone who has committed any felony or in delivering that person to a public officer competent to receive him or her in custody.

#### 4.5. **Force Options:**

4.5.1. Officers have several force options in response to resistance that will be dictated by the actions of the suspect upon the appearance of the police officer. An officer's actions need not follow any sequential order when responding to the resistance being offered. The level of response used by the officer may be equal to or greater than the level of resistance being offered by the subject. Officers may be limited in their options due to the circumstances and actions of the subject. This response should be objectively reasonable in light of the circumstances. For example, an officer who immediately observes a subject with a firearm unjustifiably threatening another may immediately respond with deadly force without considering other force options.

#### 4.5.2. **Use of Force Options**

4.5.2.1. **Command Presence:** Visual appearance of officer where it is obvious to the subject due to the officer's uniform or identification that the officer has the authority of law.

4.5.2.2. **Verbal Commands:** Words spoken by the officer directing the subject as to the officer's expectations.

4.5.2.3. **Soft Empty Hand Control:** Officer's use of hands on the subject to direct the subject's movement; Techniques that have a low potential of injury to the subject.

4.5.2.4. **Chemical Spray:** When a subject exhibits some level of active resistance/active aggression, officers may use chemical spray to temporarily incapacitate the subject.

- 4.5.2.5. **Electronic Control Device:** When a subject exhibits some level of active resistance/active aggression, officers may use an electronic control device to temporarily incapacitate the subject.
  - 4.5.2.6. **Hard Hand Control:** Punches and other physical strikes, including knees, kicks, and elbow strikes that have the possibility of creating mental stunning and/or motor dysfunction.
  - 4.5.2.7. **Impact Weapons:** Batons, ASP/Expandable Baton may be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.
  - 4.5.2.8. **Canine:** Use of canine to bite and hold subject to prevent escape or to gain control of a subject who is actively aggressing toward officer(s). Prior to deployment of a canine, a warning in the form of an announcement shall be made unless the officer is faced with an imminent threat of serious bodily harm or death to the officer(s), or some other person who is present.
  - 4.5.2.9. **Deadly Force:** Force that is likely to cause serious bodily harm or death.
- 4.6. **Deadly Force:**
- 4.6.1. Because of the value of human life, any use of deadly force should reflect the best judgments the officer is capable of rendering under the totality of the situation. This would include assessing the potential danger to bystanders and occupants of vehicles.
  - 4.6.2. When possible, officers of this department shall exhaust every other reasonable means of apprehension, control, restraint, or force before resorting to the use of deadly force.
  - 4.6.3. The use of deadly force is objectively reasonable when:
    - 4.6.3.1. The officer is faced with an imminent threat of serious bodily harm or death to the officer(s), or some other person who is present, or;
    - 4.6.3.2. To prevent the escape of an individual in cases where the officer has probable cause to believe that the subject has committed a violent felony involving the infliction or threatened infliction of serious bodily harm or death AND by the subject's escape they pose an imminent threat of serious bodily harm or death to another.
    - 4.6.3.3. Officers should warn the subject prior to using deadly force where feasible.
- 4.7. **Active Resistance**

- 4.7.1. Once the subject's active resistance has ceased and control has been gained an officer is no longer authorized to use force. Officers should immediately provide any necessary medical assistance to the subject to the degree to which they are trained and provide for emergency medical response where needed.
- 4.8. Use of Firearms / Response to Resistance and the Undercover Officer: The Sioux Falls Police Department recognizes that undercover operations necessitate a unique response to incidents involving the response to resistance.
  - 4.8.1. While no policy can anticipate every potential circumstance, certain facts are inherent to the covert law enforcement officer.
    - 4.8.1.1. Undercover officers are not readily identifiable as a police officer. The assailant is not concerned with arrest and even if the undercover officers identifies themselves as a police officer the suspect will not believe them or will be unable to intelligently process the verbal identification.
    - 4.8.1.2. The undercover officer is not equipped with the same defensive weapons as his/her overt counterpart.
    - 4.8.1.3. Attacks upon an undercover officer may be sudden and very violent with no opportunity for response to resistance options.
  - 4.8.2. All Sioux Falls Police Department covert officers are authorized to use any reasonable response to resistance options, any reasonable alternative weapon(s) or reasonable means justified by the immediate threat presented to the officer. Use of such alternative force or alternative weapon that has not been specifically approved for use by the Department will be reviewed as any other response to resistance incident.
  - 4.8.3. Firearms and the Undercover Officer: The Sioux Falls Police Department recognizes that the use of the department standard firearm may not be suitable for some undercover operations. The undercover officer is therefore authorized to carry an alternative firearm with the approval of his/her immediate supervisor and the chief of police. Said firearm must be authorized by departmental range staff. The undercover officer must qualify with said firearm.
- 4.9. Reporting Use of Force
  - 4.9.1. Police officers are given the authority to use force to overcome a subject's resistance to the officer's order to comply, effect arrest, defend against assault, and prohibit flight. It is incumbent that officers be held accountable to safeguard the rights of members of the public.

- 4.9.2. This policy mandates that members of the department accurately, completely and timely report subject control of active resistance and a supervisor conducts a prompt investigation and reports this investigation findings.

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# Sioux Falls Police Department

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<b>Policy:</b> <b>Response to Resistance /</b> <b>Control to Active Resistance</b> <b>Reporting Requirements</b>	<b>Related Policies:</b>	<b>Section #:</b> 600 Response to Resistance
		<b>Policy #:</b> 602
		<b>Effective:</b> 02-10-2011
		<b>Page 1 of 3</b>
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
<b>Reference:</b>		

1. Purpose:

1.1. It is the purpose of this policy to provide police employees and supervisors with guidelines for reporting control to active resistance. The department has a procedure to capture all required information described in this policy.

2. Policy:

2.1. Police officers are given the authority to use force to overcome a subject's resistance to the officer's order to comply, effect arrest, defend against assault, and prohibit flight. It is incumbent that officers be held accountable to safeguard the rights of members of the public. This policy mandates that members of the Department accurately, completely and timely report subject control of active resistance and a supervisor conducts a prompt investigation and reports this investigation findings.

3. Definitions:

3.1. **Injury or complained of injury** – Any time the subject being controlled is injured or complains of injury.

3.2. **Reportable control to active resistance** – Any force beyond pain compliance used by an officer to compel compliance from a subject in conformance with the officer's official duties, whether on or off duty or while employed in an off duty paid detail. This includes:

3.2.1. **Canine use** – Use of a police canine will be reported on a special form to capture any form of use whether there is contact with a subject or not.

- 3.2.2. **Chemical agents** – Use of any chemical agent to overcome subject resistance.
- 3.2.3. **Firearms discharges** – Any discharge of a firearm other than at the range or during qualification whether unintentional, for animal dispatch, or whether a subject is hit or not will be reported in a separate manner consistent with these policies.
- 3.2.4. **Electronic tools** – Use of any electronic equipment on a subject being controlled
- 3.2.5. **Impact tools/strikes** – Use of any tools, object or body part to strike a subject
- 3.2.6. **Physical force** – Use of any part of an officer’s body, such as joint manipulation, leverage, pain compliance, and take down maneuvers or neck restraint. Use of physical force in such a manner will be documented in the narrative of a case or arrest report completed by the officers involved. (**Note:** *If there are any injuries or complaint of injury associated with the use of physical force, completion of a Response to Resistance ticket in the department’s administrative reporting software is required.*)
- 3.2.7. **Pointing of Firearms** – Any time an officer points a firearm at an individual, notwithstanding the fact that deadly force is not ultimately deployed. This does not include drawing a firearm and maintaining at the low-ready position.

4. Procedure:

4.1. **Officer Responsibilities:**

- 4.1.1. Officers who become involved in an incident that required any degree of force are required to immediately notify their supervisor. The involved officer will provide a detailed documentation of the response to resistance utilized in the official police report prepared for the incident involved.
- 4.1.2. A separate Response to Resistance administrative report shall be prepared by each officer involved whenever an officer of this agency utilizes reportable force, as described in the definition of this policy, in the performance of their duties.
- 4.1.3. The administrative report ticket will be completed in detail including a narrative account of the following:
  - 4.1.3.1. The actions of the subject that necessitated that response to resistance as a response to overcome the active resistance of the subject.
  - 4.1.3.2. The reasons why force was required and the type of force the officer utilized in overcoming the resistant subject.
  - 4.1.3.3. Any injuries or complaint of injuries of either the subject or the officer and any medical treatment received.



- 4.1.3.4. In the case of an off duty officer that respond to resistance with any degree of force meeting the reporting requirements listed above, the administrative report will be initiated by the on-duty supervisor that investigated the incident. The off-duty officer involved will immediately complete the administrative report upon their return to work on their next regularly scheduled work day.

#### 4.2. Supervisory Responsibilities:

- 4.2.1. Once notified of an incident in which an officer has utilized force, a supervisor will immediately respond to the scene to investigate the incident. The supervisor will accomplish the following investigative steps in conducting the investigation:
  - 4.2.1.1. Investigate the circumstances to determine that a response to resistance was justified.
  - 4.2.1.2. Take photographs of the involved officer(s) and subject(s) depicting any potential injuries or documenting the lack of any injuries to the parties involved.
  - 4.2.1.3. Interview (recorded if possible) all witnesses to the incident and document their description of the event.
  - 4.2.1.4. Ensure that a qualified health care provider handles any injuries or other medical condition being experienced by the involved person.
  - 4.2.1.5. The supervisor shall review any video recording of the incident, if available, prior to the completion of the administrative report and the approval of the officer's reports.
  - 4.2.1.6. The supervisor investigating the use of reportable force shall be responsible for the review and approval of the officer's reports of the incident, when practicable.
  - 4.2.1.7. The supervisor will complete a review of the incident prior to completing their shift and submit a written review along with the officer's report to their chain of command for review.
  - 4.2.1.8. **Exceptions: The following do not require the completion of a Response to Resistance administrative report unless otherwise required by the above policy:**
    - 4.2.1.8.1. Handcuffing or escorting a compliant, cooperative subject.
    - 4.2.1.8.2. Physical removal of peaceful demonstrators whom do not resist.
- 4.3. When OC aerosol restraint spray is used, follow the procedures listed in the chemical agents response to resistance policy.
- 4.4. A Response to resistance Report will also be completed when a police K-9 is used to affect apprehension.

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# Sioux Falls Police Department

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Policy: <b>Response to Resistance –          Chemical Agents</b>	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 603
		Effective: 3-01-2010
		Page 1 of 4
<p><i>This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i></p>		
Reference:		

1. Purpose:

1.1. The purpose of this policy is to direct officers in the appropriate response to resistance.

2. Policy:

2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.

3. Procedure:

3.1. The Sioux Falls Police Department has issued Oleoresin Capsicum aerosol (OC Spray) to provide officers with an additional use-of-force option for gaining compliance of resistant or aggressive individuals in arrest and other enforcement situations. It is the policy of the Sioux Falls Police Department that officers use OC when warranted, but only in accordance with the guidelines and procedures set forth herein and as consistent with the Sioux Falls Police Department use-of-force policy.

- 3.2. Prior to deployment of any less-lethal weapon, officers must be trained and certified in the proper use of the weapon from both the technical and legal aspects. All deployments must be consistent with departmental response to resistance training and policy.
- 3.3. Officers whose normal duties/assignments may require them to make arrests or supervise arrested persons **shall be required** to carry department-authorized OC while on duty. Non-uniformed sworn officers are exempted from this requirement.
- 3.4. Uniformed officers shall carry only department-authorized OC canisters in the prescribed manner on the duty belt. Non-uniformed officers may carry OC in alternative devices as authorized by the department.
- 3.5. Chemical Spray:
  - 3.5.1. Chemical spray is considered a response to resistance and shall be employed in a manner consistent with this agency's response to resistance policy.
  - 3.5.2. Chemical Spray shall not be deployed as a compliance technique for a person who is passively or verbally non-compliant. Active resistance/active aggression shall be required.
  - 3.5.3. Chemical spray may be used when verbal dialogue has failed to bring about the subject's compliance, or there is no opportunity to use verbal dialogue and the subject has signaled the intention to actively resist the officer's efforts to make the arrest.
  - 3.5.4. Whenever practical and reasonable, officers should give warning to other officers on scene of impending OC use.
  - 3.5.5. Once a suspect is incapacitated or restrained, use of OC is no longer justified unless the restrained subject is still a threat.
  - 3.5.6. Chemical Spray shall never be used as a punitive measure.
  - 3.5.7. Officers should never spray from a pressurized can directly into a subject's eyes from a close distance due to the potential for eye injury as a result of the pressurized stream. Officers should never spray directly into a subject's eyes from closer than three feet or the distance recommended by the manufacturer of the spray (whichever is shorter) unless deadly force would be justified.
  - 3.5.8. Officers shall consider alternatives to chemical spray when attempting to control a subject in a crowded-enclosed area due to the innocent over-spray that may cause the onset of panic.
  - 3.5.9. Officers shall consider alternatives to chemical spray when the event is inside a building, particularly where the building has a closed-ventilation system due to the potential impact on innocent persons who may have to be evacuated (temporarily) from the locations.

- 3.5.10. Once control is gained, officers should immediately provide for the decontamination of the subject.
- 3.5.11. If the person shows any signs of physical distress or does not recover in a reasonable amount of time, officers should immediately direct an emergency medical response and render first-aid at the degree for which they are trained.
- 3.5.12. Effects of OC and Officer Response:

- 3.5.12.1. Within several seconds of being sprayed with OC, a suspect will normally display symptoms of temporary blindness, have difficulty breathing, burning sensation in the throat, nausea, lung pain, and/or impaired thought processes.

The following procedures will be routinely followed, except when extenuating circumstances may prevent compliance:

- 3.5.12.1.1. The effects of OC vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being sprayed.
- 3.5.12.1.2. Immediately after spraying a suspect, officers shall be alert to any indications that the individual requires medical care. This includes, but is not necessarily limited to, breathing difficulties, gagging, profuse sweating, and loss of consciousness. Upon observing these or other medical problems, or if the subject requests medical assistance, the officer shall summon emergency medical aid.
- 3.5.12.1.3. Suspects that have been sprayed should be monitored continuously for indications of medical problems and should not be left alone while in police custody.
- 3.5.12.1.4. Air will normally begin reducing the effects of OC spray within 15 minutes of exposure. However, once the suspect has been secured at the jail or in a medical facility, officers shall assist them by rinsing and drying the exposed area.
- 3.5.12.1.5. Assistance shall be offered to any individuals accidentally exposed to OC spray who demonstrate that they are feeling the effects of the agent.

3.5.13. Reporting Procedures:

- 3.5.13.1. All use of OC spray shall be reported following the Response to Resistance Reporting Policy.

3.5.14. Replacement:

- 3.5.14.1. All OC spray devices shall be maintained in an operational and charged state by assigned personnel. Obtaining replacements for damaged, inoperable, or empty devices are the responsibility of officers to whom they are issued.
- 3.5.14.2. Replacement of OC spray canisters shall occur when the unit is less than half full or four years from the manufacture date.



# Sioux Falls Police Department

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<b>Policy:</b> <b>Response to Resistance / Impact Weapons (Collapsible Batons)</b>	<b>Related Policies:</b>	<b>Section #:</b> 600 Response to Resistance
		<b>Policy #:</b> 604
		<b>Effective:</b> 3-01-2010
		<b>Page 1 of 2</b>
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
<b>Reference:</b>		

1. Purpose:

1.1. The purpose of this policy is to direct officers in the appropriate response to resistance.

2. Policy:

2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.

3. Definitions:

3.1. **Impact Weapons** – Collapsible Batons, be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.

#### 4. Procedure:

- 4.1. Prior to deployment of any less-lethal weapon, officers must be trained and certified in the proper use of the weapon from both the technical and legal aspects. All deployments must be consistent with departmental response to resistance training and policy.
- 4.2. Impact weapons may be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control.
- 4.3. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.
- 4.4. Officers shall not intentionally strike a person in the head with an impact weapon unless deadly force would be justified.
- 4.5. At all times while on duty, all sworn officers in the field shall be required to carry their collapsible baton. Repairs or modifications to the collapsible baton should be done only by the armorer or his designee.
- 4.6. The flashlight should not be used as a defensive tool, except in an emergency situation.
- 4.7. Except in an emergency, handcuffs will not be used as a defensive impact tool.
- 4.8. The use of an impact weapon requires a Response to Resistance report in the department's administrative reporting software. Follow reporting guidelines as listed in the Response to Resistance Report Requirements policy.
- 4.9. Currently the department issues a collapsible baton manufactured by ASP. Officers are also authorized to carry an Autolock® baton manufactured by Monadnock.



# Sioux Falls Police Department

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Policy: <b>Response to Resistance –          Firearms Generally</b>	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 606
		Effective: 3-01-2010
		Page 1 of 4
<p><i>This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i></p>		
Reference:		
Sensitivity Level: <input type="checkbox"/> Public <input checked="" type="checkbox"/> Guarded <input type="checkbox"/> Law Enforcement Eyes Only		

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2. Policy:
  - 2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.
  
3. Definitions:
  - 3.1. **Deadly Force** – Force that is likely to cause serious bodily harm or death.
  
4. Procedure:
  - 4.1. The Armorer Sergeant will, at regular intervals, inspect, repair as necessary, and maintain detailed records on all department-owned firearms and firearms that are authorized to be carried on duty as a backup weapon. The cost of repairs that are needed for backup weapons will be at the expense of the owner.

The Armorer Sergeant will not repair any firearms for outside agencies except those that are authorized by the Chief of Police.

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- 4.2. Ammunition carried on duty will be used during a qualification shoot and new duty ammunition issued once per year.
- 4.3. The Chief of Police will specify which firearms, calibers, and ammunition will be carried and/or used by all on-duty personnel.
- 4.4. All officers assigned to special units and using firearms or special equipment will be required to show proficiency with that firearm or special equipment at regular intervals in addition to regular training and proficiency tests.
- 4.5. Because of the value of human life, any use of deadly force should reflect the best judgments the officer is capable of rendering under the totality of the situation. This would include assessing the potential danger to bystanders and occupants of vehicles.
- 4.6. When possible, officers of this department shall exhaust every other reasonable means of apprehension, control, restraint, or force before resorting to the use of deadly force.
- 4.7. The use of deadly force is objectively reasonable when:
  - 4.7.1. The officer is faced with an imminent threat of serious bodily harm or death to him/herself, or some other person who is present, or;
  - 4.7.2. To prevent the escape of an individual in cases where the officer has probable cause to believe that the subject has committed a violent felony involving the infliction or threatened infliction of serious bodily harm or death AND by the subject's escape they pose an imminent threat of serious bodily harm or death to another.
  - 4.7.3. Officers should warn the subject prior to using deadly force where feasible.
- 4.8. Drawing of Firearms
  - 4.8.1. Firearms are to be drawn in the station only in the following situations:
    - 4.8.1.1. In an emergency.
    - 4.8.1.2. At the request of a supervisor.
    - 4.8.1.3. At the request of the Armorer Sergeant.
    - 4.8.1.4. When so instructed at training exercises.
    - 4.8.1.5. When cleaning in the designated area of the Armorer's Shop.
    - 4.8.1.6. When utilizing one of the provided unload/reload stations.

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4.8.2. Firearms are to be drawn outside the station in the following situations only:

- 4.8.2.1. As cited in the response to resistance sections of this police manual.
- 4.8.2.2. To kill a dangerous animal or to kill other animals when assigned by the department.
- 4.8.2.3. When training on a range facility.
- 4.8.2.4. As instructed during other training assignments.
- 4.8.2.5. As a signal for assistance when no other means are available.

4.8.3. If the weapon is to be drawn in an officer's residence for loading/unloading purposes, the following specific procedures are recommended:

- 4.8.3.1. Officers have the choice of taking their duty weapon home or leaving it in their locker. If the officer chooses to take a duty weapon home, some special considerations must be taken to avoid any accidental discharges.
  - 4.8.3.1.1. One of the most tenuous procedures to perform at home is to unload upon your arrival and load prior to your departure. To prevent injury or property damage as a result of an unintentional discharge, a safe area must be designated in the home that is free of distractions and capable of capturing the projectile if the weapon is discharged.
  - 4.8.3.2. If an officer chooses to take their duty weapon(s) home, it must be secured in a manner to prevent unauthorized access to the weapon(s). The manner in which it is secured is up to each individual officer. Examples might be a cable lock, a trigger lock, a lock box or gun safe.
  - 4.8.3.3. It is the officer's responsibility to educate members of his / her household as to the presence and use of the firearms that are brought into their home. A good beginning is with the general rules of firearms safety and a **"No Touch"** policy. Weapons that officers bring into the home are tools and are not to be touched. It is the officer's responsibility that they are not left unattended.
  - 4.8.3.4. If the officer decides to take his weapon home, there are two unload/reload stations at the LEC for use so that the weapon can be safely unloaded prior to departure. Simply follow the posted instructions above the unload-reload station and remember to keep your ammunition out of any pockets that contain any type of battery.

#### 4.9. Discharge of Firearms Restrictions:

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- 4.9.1. Warning Shots are prohibited.
- 4.9.2. The discharge of firearms is prohibited when the officer is presented with an unreasonable risk to innocent third parties.
- 4.9.3. When a moving vehicle is involved, use of deadly force by discharging a firearm is dangerous, can be ineffective, and should not occur when there is an unreasonable risk to the safety of persons other than the subject.
  - 4.9.3.1. Whenever possible, officers should avoid placing themselves in a position where use of deadly force is the only alternative.
  - 4.9.3.2. Even when deadly force is justified, firearms shall not be discharged at a vehicle unless:
    - 4.9.3.2.1. The officer has a reasonable belief that an occupant of the vehicle poses an imminent threat of death or serious physical injury to the officer or another person, or
    - 4.9.3.2.2. The officer has a reasonable belief that an occupant is using the vehicle in a manner that poses an imminent threat of death or serious physical injury to the officer or another person, and there is no avenue of escape.
- 4.10. Officers will check their firearms in the places provided before entering the Penitentiary, County Jail, and Juvenile Detention Center.
- 4.11. Anytime that a firearm authorized to be carried by or assigned to an officer is discharged for any reason, whether negligently or intentionally, while on duty or off duty, the incident must be reported in writing using the department's administrative reporting software program.
- 4.12. The officer discharging the weapon must complete the form during the **same tour of duty** as the discharge occurred.
- 4.13. If the discharge occurs while off duty, an on-duty supervisor will be contacted and notified immediately.
- 4.14. Firearms practice and proficiency exercises are exceptions.
- 4.15. Reporting procedures are outlined in the Reporting Requirements policy.



# Sioux Falls Police Department

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<b>Policy:</b> <b>Response to Resistance – Urban Police Rifles (UPR)</b>	<b>Related Policies:</b>	<b>Section #:</b> 600 Response to Resistance
		<b>Policy #:</b> 607
		<b>Effective:</b> 3-01-2010
		Page 1 of 2
<i>This policy is for internal use only and does not enlarge an employee’s civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
<b>Reference:</b>		

1. Purpose:

1.1. The purpose of this policy is to direct officers in the appropriate response to resistance.

2. Policy:

2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.

3. Procedure:

3.1. Officers are authorized to carry and deploy the Urban Police Rifles (UPRs) once they have satisfactorily completed the required training and have qualified with the rifle.

3.2. The use of the UPR will be in accordance with the guidelines and procedures set forth herein and will be consistent with the Sioux Falls Police Department’s response to resistance policy.

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- 3.2.1. The department will set the qualification standard and course of fire that must be met to be able to deploy the UPR.
- 3.2.2. The qualification shall be once every calendar year.
- 3.2.3. Only department-issued UPRs are allowed to be carried.
- 3.2.4. The armorer sergeant or his designee shall maintain and complete all repairs and make any authorized modifications to the UPRs
- 3.2.5. UPRs will be stored in the gun racks mounted in the vehicles, or in a case, locked in the trunk. They will be stored with the chamber empty, bolt forward, a loaded magazine in place (if possible), and the safety on.
- 3.2.6. The UPRs will be inspected at the beginning of each tour of duty and any problems reported to the armorer sergeant.
- 3.2.7. Any discharge of the UPR must be reported to a supervisor and an administrative report response to resistance ticket completed that tour of duty.

### 3.3. Deployment of Urban Police Rifle

- 3.3.1. The deployment of the UPR is at the discretion of the individual officer. Generally, incidents where there is a possibility of deadly force occurring or the probability of armed confrontation would justify the deployment of the UPR.
- 3.3.2. The UPR will be carried slung across the chest or in a muzzle down position of using a standard two point sling.
- 3.3.3. The weapon will ALWAYS be on SAFE until the moment the officer decides to fire.
- 3.3.4. Use of the UPR will be in accordance with the department's response to resistance policy.

### 3.4. Discharge of Urban Police Rifle

- 3.4.1. An officer that discharges a UPR will follow the response to resistance reporting guidelines.



# Sioux Falls Police Department

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Policy: <b>Weapon Repair - Authorization</b>	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 608
		Effective: 4-01-2009
		Page 1 of 1
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Reference:		

1. Purpose:
  - 1.1. This policy is created to establish guidelines regarding the repair of department weapons and authorization to carry firearms while on duty.
  
2. Policy:
  - 2.1. It is the policy of the Sioux Falls Police Department that any repairs or modifications to department issued firearms shall be referred to the Armorer Sergeant. It is also the policy of the department that only firearms that are authorized by the Chief of Police or a division commander may be carried by officers on duty.
  
3. Procedure:
  - 3.1. The serial number of any firearm carried on duty must be recorded with the department armorer sergeant.
    - 3.1.1. This includes personal backup weapons.
  - 3.2. All officers are required to carry and use only department-issued ammunition while on duty.
  - 3.3. Uniformed officers will use the department-issued safety holster when on duty, except those officers on station assignments.

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# Sioux Falls Police Department

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Policy: <b>Response to Resistance-          Electronic Control Devices</b>	Related Policies: 601, 602	Section #: 600 Response to Resistance
		Policy #: 609
		Effective: 02-25-2015
		Page 1 of 5
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Reference: [#6—Click here and type]		

1. Purpose:
  - 1.1. The purpose of this policy is to direct officers in the appropriate response to resistance, specifically dealing with Electronic Control Devices (ECD'S)
  
2. Policy:
  - 2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.
  
3. Definitions:
  - 3.1. **Active Resistance** – Any affirmative action taken by a subject to defeat the officer's ability to take custody or control.
  - 3.2. **Data download** - Method of electronic recovery of information saved by the Electronic Control Device upon each deployment.
  - 3.3. **Deadly Force** – Any force that is likely to cause serious bodily harm or death.
  - 3.4. **Electronic Control Device (ECD)** – Electronic Control Devices, TASER, or stun guns that disrupt the central nervous system.
  - 3.5. **Imminent** – Impending or about to occur.
  - 3.6. **Non-Deadly Force** – All uses of force other than those that is likely to cause serious bodily harm or death.

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- 3.7. **Objectively Reasonable** – The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer using the force is presented.
  - 3.8. **Passive Resistance** – No affirmative action or threat of affirmative action on the part of the subject to defeat the officer's ability to take custody or control.
  - 3.9. **Reasonable Belief** – Reasonable belief means that the person concerned, acting as a reasonable person believes that the prescribed facts exist.
  - 3.10. **Serious Bodily Harm: (18 U.S.C. § 1365 (h) (3))** – The term "serious bodily injury" means bodily injury which involves
    - 3.10.1. a substantial risk of death;
    - 3.10.2. extreme physical pain;
    - 3.10.3. protracted and obvious disfigurement; or
    - 3.10.4. protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
4. Procedure:
- 4.1. In addition to compliance with this agency's use of force (response to resistance) policy #601, all deployments of an ECD as a response to resistance must comply with the provisions of this Electronic Control Device policy.
  - 4.2. An ECD as a force option is the same level of force as chemical spray.
  - 4.3. ECD's must be worn on the weak side in a cross draw position.
  - 4.4. ECD deployment shall not be considered for the passively resistant subject. Active resistance or act of aggression shall be required.
  - 4.5. Flight from an officer alone is not a justification for the use of ECD. Officers should consider the nature of the offense suspected at the level of suspicion with respect to the person fleeing, and the risk of dangers to others if the person is not apprehended immediately. Additionally, officer should take into consideration the type of area, i.e. asphalt, railroad tracks, water, grass etc.
  - 4.6. Officers must be trained concerning the ability of an electrical charge to act as an ignition for combustible materials.
  - 4.7. Multiple ECD deployments against an individual may increase the likelihood of serious injury. Training should encourage officers to minimize the successive number of discharges against an individual where possible.
  - 4.8. This agency recognizes however, particularly where back up officers are unavailable, that multiple active applications may be necessary to gain or maintain control of a combative individual.
  - 4.9. No more than one officer should deploy an ECD against a single individual at the same time.



- 4.10. A drive stun with the X2 Taser may cause burns and is used for pain compliance, not incapacitation. Drive stuns may be used with the X2 Taser however, should be used only when probe activation is not feasible.
- 4.11. The preferred target areas for probe shots are below the neck area for back shots and the lower center mass (below chest) for front shots. The preferred target areas increase the dart to heart distance and reduced cardiac risks. Back shots are preferable to front shots when practical.
- 4.12. When practical, avoid intentionally targeting the ECD on sensitive areas of the body such as the face, eyes, head, throat, chest area (area of the heart), breast, groin, genitals or known pre-existing injury areas.
- 4.13. Officers are prohibited from using the device as a punitive measure.
- 4.14. ECDs shall not be used against a person who is in physical control of a vehicle in motion unless deadly force would be justified based on an existing eminent threat.
- 4.15. A warning prior to discharge is preferred but not always necessary for this type of force to be considered reasonable. Model policies as well as courts have noted that giving a subject, who is assaultive toward the officer, a warning may enhance the danger to the officer and the subject by giving the subject time to avoid the deployment. See: *Draper v. Reynolds*, 369 F.3d 1270 (11<sup>th</sup> Cir, 2004)
- 4.16. When feasible, officers should notify other officers before deploying the device.
- 4.17. The ECD shall never be used on a handcuffed person to force compliance unless the subject is actively resistant and control cannot otherwise be accomplished.
- 4.18. Officers should consider the location and environment of the subject. i.e. Is the subject at the top of a stairwell such that when incapacitated by the ECD they fall down the stairs causing a collateral injury?
- 4.19. Officers should be aware that a subject's heavy clothing may impact the effectiveness of the ECD.
- 4.20. Officers should consider whether the subject has been exposed to combustible elements that may be on their person, such as gasoline. The use of ECD's on such a person may cause an ignition and fire.
  - 4.20.1. Activation of an ECD after deployment of a chemical spray is discouraged as not all chemical sprays are deemed non-flammable.
- 4.21. Officers should consider the particular subject and any vulnerability that they may have such as: the very young, the elderly, those small in stature or very frail who will be more dramatically impacted by the use of ECD.
  - 4.21.1. Officers who are aware that a female subject is pregnant shall not use the ECD unless deadly force would be justified. This is due to the danger created by the secondary impact or the possibility of muscle contractions leading to premature birth.
  - 4.21.2. Alternative tactics shall be utilized where the officer has prior information that the subject suffers from a disability or condition which would increase the danger to the person by using an ECD. i.e. A person at the scene tells an officer that the subject has a heart condition.

- 4.22. In cases where the probes have penetrated a subject's skin and it's not in a sensitive area (see mandatory medical clearance at a hospital), removal of the probes may be done by the officer on scene. Deployed probes that have been removed from a suspect should be treated as a biohazard.
- 4.23. If EMS is present, their services may be utilized for the removal of darts that have penetrated the skin as long as such removal can be accomplished without causing further injury or pain to the subject.
- 4.24. All persons who have been the subject of an ECD deployment shall be monitored for a period of time with a focus on symptoms of physical distress. If a person appears to be having any form of physical distress following the deployment of an ECD, EMS will be requested to the scene to assess the subject.
- 4.25. If a person has been the subject of an ECD deployment and does not fall under one of the mandatory clearance categories listed below, officers can immediately transport them to the MCSO jail. Officers shall continue to observe the subject from the time of deployment through transportation. Correctional personnel must be notified that the subject has been exposed to an ECD deployment.
- 4.26. Mandatory medical clearance at a hospital:
  - 4.26.1. Person struck in a sensitive area – face or head, genitals, female breast.
  - 4.26.2. Where the probes have penetrated the skin and officers cannot safely remove the darts in accord with this policy.
  - 4.26.3. Any person who appears to be having signs of unusual physical distress following the deployment of an ECD.
  - 4.26.4. Persons who fall into one of the vulnerable classes such as juveniles, pregnant women, persons who are small in stature, the elderly, and persons who officers become aware of having a pre-existing medical condition that increases danger.
  - 4.26.5. Subjects who specifically request medical assistance at a hospital.
5. Documentation
  - 5.1. All deployments of an ECD shall be documented, including those cases where a subject complies once threatened with an un-holstered and displayed ECD. By documenting the non-discharge uses our agency establishes officer judgment and control, as well as the deterrent effect of this tool.
  - 5.2. Photographs of the affected area shall be taken following the removal of darts from the subject to document any injury. Where the drive stun method has been used, photographs are extremely important due to the increased potential for this method to cause scarring. Photographs will be taken of the deployed probes after being removed from the subject and prior to disposal.
  - 5.3. All ECD usage by an officer will be documented as outlined in the Response to Resistance Reporting Requirements policy (602.4.1).
  - 5.4. Supervisory personnel shall be notified and review all ECD deployments for consistency with policy and training as outlined in the Response to Resistance Reporting Requirements policy (602.4.2).

- 5.5. The ECD will be removed from service as soon as practical after an actual probe deployment or a drive stun was used, and will remain out of service until such time as the deployment report is downloaded from the ECD's data port.
- 5.6. Downloading will be done at the LEC by an assigned downloading operator as specified by the chief of police.
6. Miscellaneous
  - 6.1. Only those personnel specifically trained in their use will deploy ECDs.
  - 6.2. Training in qualification with the ECD shall be conducted annually based on curriculum establish by the training section.
  - 6.3. All ECD units will be audited quarterly to ensure that all deployment/activations have been reported as required.