

RESPONSE TO RESISTANCE OR ASSAULTIVE BEHAVIOR

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Purpose: This policy aims to provide law enforcement officers of this agency with guidelines for responding to resistance or assaultive behavior.

Policy Statement: It is the policy of the North Little Rock Police Department that officers use only the force objectively reasonable and necessary to accomplish lawful objectives and effectively bring an incident under control while protecting the lives of the officers and others [CALEA 4.1.1]. When an officer is determining objective reasonableness, three things are considered in an officer's response to resistance or assaultive behavior, and they are: 1.) The seriousness of the offense 2.) Is the subject an immediate physical threat to the officer or third party 3.) Is the subject actively resisting or attempting to evade arrest. Only issued or approved equipment will be used when encountering resistance, except in life-threatening emergencies when officers may use any resource at their disposal. Force can lawfully be used for two purposes: defense of self or others or as a control measure.

Summary of Changes: Duty to Intervene changed from officer to employee

Definitions:

Deadly Physical Force: Physical force under the circumstances in which it is used is readily capable of causing death or serious physical injury. (5-2-601 Arkansas Code Annotated)

Physical Force: Physical force is any bodily impact, restraint, or confinement, or the threat thereof. (5-2-601 Arkansas Code Annotated)

Reasonable Belief: Facts or circumstances the officer knows or should know to cause an ordinary and prudent person to act or think similarly under similar circumstances.

Serious Physical Injury: Physical injury that creates a substantial risk of death or that causes permanent disfigurement, protracted impairment of health, or prolonged impairment of the function of any bodily member or organ [CALEA 4.1.2]. (5-1-102 Arkansas Code Annotated)

Objective Reasonableness/Objectively Reasonable: States that an officer's actions were reasonable in light of the facts and circumstances confronting him or her without regard to underlying intent or motivation [CALEA 4.1.2].

Imminent: Has a broader meaning than immediate or instantaneous; an officer should understand the concept of imminent to be elastic, involving a continuous period depending on the circumstances rather than a moment in time under the definition of immediate.

Immediate: Meaning an officer is faced with a direct or presently occurring threat of bodily harm or death.

Chokehold: The applying of any direct pressure to the throat, windpipe, or airway with the intent to reduce or prevent the intake of air. "Chokehold" does not include any hold involving contact with the neck that is not intended to reduce the intake of air.

Neck Restraint: A method of rendering a person unconscious by restricting blood flow to the brain by compressing the sides of the neck where the carotid arteries are located.

De-escalation: Force can be avoided when people respond to an officer's presence, communication, and containment. When feasible, officers should use these types of techniques in an attempt to avoid using physical force. Officers should not intentionally escalate situations unnecessarily.

Duty of Care: Officers have an affirmative responsibility to care for persons in their custody. Officers and supervisors are responsible for providing or obtaining appropriate medical attention to any person in their custody who is injured or complains of injury. Duty of care pertains to whether injuries preceded custody, occurred during apprehension, or were sustained during detention. Officers also must provide or obtain medical attention for members of the public who are injured due to involved police actions.

Positional asphyxia: A form of asphyxia occurs when someone's position prevents the person from breathing adequately. To avoid positional asphyxia, this agency prohibits unnecessary, prolonged facedown-prone restraint.

Active Resistance: A subject actively resists when they take affirmative action(s) to defeat an officer's ability to bring them into custody.

Passive Resistance: A subject who takes no affirmative action to defeat the officer's ability to bring them into custody (to make an arrest) but resists by not responding to verbal commands and presents a refusal to comply or move by sitting down or acting as dead weight.

Active Aggression: Behavior that creates an imminent risk of physical injury to a subject, officer, or third party but would not lead a reasonable officer to perceive a risk of death or serious bodily injury.

Excessive Force: Excessive force is not objectively reasonable from a reasonable officer's perspective in the same circumstances.

Assaultive Behavior: Manner of behaving or acting that is seemingly physically aggressive or seeming to assault. Assaultive behavior is an unlawful physical attack upon another or threat of enacting violence upon another (with or without battery).

Procedure:

1. Use of Deadly Force

- 1.1 The use of deadly force by a law enforcement officer is justified when the officer reasonably believes that it is necessary;
- 1.2 To effect an arrest or to prevent the escape from custody of an arrested person whom the officer reasonably believes has committed or attempted to commit a felony and is presently armed or dangerous [CALEA 4.1.2] (Arkansas Code Annotated 5-2-610); or
- 1.3 To defend himself/herself or a third person from what the officer reasonably believes to be the imminent use of deadly physical force [CALEA 4.1.2].(Arkansas Code Annotated 5-2-610)

2. Fleeing Felons

- 2.1 The use of deadly force against fleeing felons being generally prohibited with the following exceptions:
- 2.2 There is probable cause to arrest the felony suspect; and
- 2.3 The felon cannot otherwise be apprehended; and
- 2.4 The felon used deadly force in the commission of a felony, or there is a reasonable belief that deadly force will be used against an officer or
- 2.5 The subject's escape will pose an imminent threat of serious physical injury or death to another.
- 2.6 Where feasible, some warning will be given. **Warning shots are prohibited!** [CALEA 4.1.3]

3. Use of Physical Force

- 3.1 The use of physical force upon another person by a law enforcement officer is justified when he/she reasonably believes it necessary;
- 3.2 To effect an arrest or prevent the escape from custody of an arrested person unless the officer knows that the arrest is unlawful; or
- 3.3 To defend himself/herself or a third person from what he/she reasonably believes to be the use or imminent use of physical force; or
- 3.4 While effecting or attempting to effect an arrest, or to maintain the public order; or
- 3.5 While preventing or trying to prevent an escape.

4. Chokeholds and Neck Restraints

- 4.1 An officer shall not use a chokehold or vascular neck restraint in the performance of his or her duties unless it is a deadly force situation. [CALEA 4.1.6, 4.1.7]

5. Response to Resistance or Assaultive Behavior Options

- 5.1 Officers have several responses to resistance or assaultive behavior options dictated by the subject(s) actions. Officers may be limited in their options due to the circumstances and the subject's actions. Responses to resistance or assaultive behavior options should not be considered a ladder or continuum to be followed. An officers response options may include but are not limited to the following:
- 5.2 Officer Presence: The visual presence of an officer. The presence of an officer is the first response to resistance or assaultive behavior. Officers are granted supreme authority in interactions with the public. Citizens choose to recognize or not to recognize the officer's lawful authority. At times, the citizen may be unable to (mentally or physically) recognize this authority.
- 5.3 Verbal Commands and De-escalation: Verbal commands indicate a command in speech rather than action via spoken commands. An officer can use de-escalation techniques to avoid physical confrontation when possible [CALEA 4.1.1].
- 5.4 Empty Hand Control/Directional Control: Officer's use of hands-on to direct the subject's movement. Techniques have a lower potential for injury to the subject, depending on the subject's actions/level of resistance.

- 5.5 OC Spray: When subjects exhibit some level of resistance/refusal to submit to the officer's authority, officers may use OC spray to gain compliance or temporarily incapacitate the subject.
- 5.6 Conducted Energy Weapon (CEW): When the subject exhibits some active resistance/aggression level, an officer may use a CEW to incapacitate the subject temporarily.
- 5.7 Physical Strikes: Punches, strikes, kicks, knees, throws, elbows, and techniques that have the potential to create a stunning mental state or motor dysfunction.
- 5.8 Impact Weapons/Less-Lethal Weapons: Includes expandable batons, PR-24 batons, less-lethal (orange shotguns), 40mm LL Launchers, other impact weapons allowed by the department, or other weapons of opportunity as may be dictated by the circumstances facing officers. They may be utilized when the officers believe using these weapons would be reasonable to bring the situation under control [CALEA 4.1.4].
- 5.9 Canine: Use of the canine to bite and hold subject to prevent escape or to gain control of a subject who has fled/is fleeing, who is actively resisting officers, who are actively aggressive/assaultive towards others, or when it may not be safe to send an officer in to make an apprehension. Before deployment, a warning in the form of an announcement should be given when reasonable.

6. Duty to Intervene

- 6.1 Employees of this agency have an affirmative duty to intervene if they witness an unreasonable response to resistance or assaultive behavior.
- 6.2 Any officer present and observing another officer's response to resistance or assaultive behavior that is clearly beyond that which is reasonable under the circumstances shall, when safe to do so intervene, and prevent the unreasonable response.
- 6.3 An employee that observes another employee's response to resistance or assaultive behavior that exceeds the degree permitted by law should promptly report those observations to a supervisor.

7. Medical Treatment and Workman's Compensation

- 7.1 When there are injuries or complaints of injuries to any person during a response to resistance or assaultive behavior, the supervisor responsible for the investigation will ensure that appropriate medical care is provided to the officer and subject.
- 7.2 Responding officers should attempt to render aid after using force when it is reasonably safe to do so [CALEA 4.1.5]. (PD 11-2, Reporting Response to Resistance or Assaultive Behavior)
- 7.3 Officers will receive annual training (Response to Resistance or Assaultive Behavior Training) on primary medical care to assist persons or officers when necessary. Training will consist of (but may not be limited to) the proper application of tourniquet(s) and positional asphyxia awareness.
- 7.4 Officers will contact emergency medical professionals who will become the primary caregivers when they arrive. Officers will assist and maintain presence wherever/whenever feasible or required by law and policy.

8. Department Response

- 8.1 All members' responses to resistance or assaultive behavior, resulting in injury or complaint thereof, will be reported according to PD 11-02 (Reporting Response to Resistance or Assaultive Behavior).
- 8.2 Any member whose actions or response to resistance results in a death or serious physical injury will be removed from duty assignment and placed on paid administrative leave status pending review of the incident.

9. Training

- 9.1 All personnel authorized to carry weapons must receive annual in-service training on this agency's Response to Resistance or Assaultive Behavior Policy [CALEA 4.1.1].