

## **FORCE - USE OF FORCE**

### **DISCLAIMER:**

This policy is for Omaha Police Department (OPD) use only and does not apply in any criminal or civil proceeding. This policy should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this policy will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

### **PREAMBLE:**

The value of human life is immeasurable in our society. Omaha Police Officers are granted the responsibility and authority to apprehend criminal offenders and to protect life and property and are vested with lawful authority to use force to protect public welfare. This requires a careful balancing of competing interests. Apprehension of criminal offenders must at all times be subordinate to the protection of innocent human life.

### **POLICY:**

Omaha Police Officers will use only that amount of force which is objectively reasonable to take a subject into custody or otherwise bring an incident under control while protecting the safety of the officer and others. Whether a use of force is reasonable is tested by balancing the type and quality of intrusion on the individual's rights against the governmental interests at stake. In determining what degree of force is objectively reasonable, officers shall evaluate each situation requiring the use of force in light of the known circumstances at the time of the event, including, but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and/or the danger presented, including whether the subject poses an immediate threat to the safety of the officers or others. Officers maintain the right to self-defense and have a duty to protect the lives of others.

### **DEFINITIONS:**

**Deadly Force:** Any use of force that is likely to cause death or serious bodily harm.

**Force:** Any physical effort used to control or restrain a subject, or to overcome the resistance of a subject.

**Involved Officer:** Any officer who discharges a weapon in the line of duty or uses other force where death or serious injury occurs.

**Less-Lethal Force:** Any use of force other than that which is considered deadly force.

**Low lethality Target Areas:** Areas of the body that when struck have a low risk of causing serious bodily injury and will most likely only cause temporary discomfort. Motor nerve points, soft tissue areas, pit of the abdomen, and extremities of the body are low lethality target areas. The head will typically not be considered a low-lethality target area. The head may be such a target area only if, considering the nature, location of the strike, and the type of strike, there is a low degree of risk for serious bodily injury.

**Objectively Reasonable Force:** The amount of force that a reasonable officer would use when faced with the circumstances presented. An officer's use of force is governed by the reasonableness standard set forth in *Graham v. Connor*, 490 U.S. 386, 395, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989). The inquiry is an *objective* one. The question is whether the facts and circumstances make the force reasonable without regard to the officer's underlying intent or motivation. The reasonableness of a particular use of force will be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

**Reasonable Belief:** A belief that a reasonably prudent officer would hold given the facts and circumstances the officer knows or should know.

**Serious Bodily Injury:** Injury that creates a substantial risk of death, permanent disfigurement, or long-term loss or impairment of function of any bodily member or organ.

**Vital Target Areas:** Areas of the body that when struck with an empty hand tactic, a baton, or an improvised impact weapon have a high risk of causing serious bodily injury. These areas include: the midline of the neck, the spine, the sternum, the groin, joints, the kidneys and, as described herein, areas of the head.

## **PROCEDURE:**

### **I. VARIABLES IN FORCE OPTIONS**

- A. The Omaha Police Department realizes and acknowledges that during intense, uncertain, and/or rapidly evolving confrontations it may be reasonable for officers to use improvised techniques and weapons that are not a part of OPD's formal training program. However, the Department expects that its training and policies will be followed except in rare and unique circumstances and the use of improvised techniques and weapons will be an exception which is justified by the totality of the circumstances.
- B. When determining the reasonableness of an officer's actions, the totality of the circumstances will be considered. Circumstances such as the size disparity between the officer and the suspect, the number of potential assailants and officers, environmental risk factors, and any other circumstances that can be articulated which would aggravate the danger level for officers or citizens will be considered.

### **II. AUTHORIZATION**

- A. Where deadly force is not authorized, officers will use discretion to determine which less-lethal technique or less-lethal weapon will best de-escalate the incident and bring it safely under control.
- B. Officers are authorized to use Department-approved less-lethal force techniques and issued equipment to:
  - 1. Protect themselves, or another, from physical harm.
  - 2. Restrain or subdue a resistant individual.
  - 3. Bring an unlawful situation effectively and safely under control.

### **III. DEFENSE OF LIFE**

- A. Officers may use a firearm or other deadly force in performance of duty for any of the following reasons:
  - 1. To defend themselves or others, from what is reasonably believed to be imminent threat of death or serious bodily injury.
  - 2. To effect arrest or prevent escape of a person when the officer has probable cause to believe the subject poses a significant threat of death or serious bodily injury to the officer or others; whom the officer knows, or has reasonable grounds to believe, has committed a felony, when the crime for which arrest is made involves conduct including use or threatened use of deadly force, or when there is substantial risk that the subject to be arrested will cause death or serious bodily harm if his/her apprehension is delayed.

**NOTE:** Verbal Warning - Before using a firearm in defense of self or others or to affect an arrest or prevent an escape, police officers will give loud verbal commands, if possible.

3. To give alarm, or call for assistance, when no other means is available.
4. To kill a dangerous animal, or kill an animal so badly injured that humanity requires its removal from further suffering. (All attempts should be made to request assistance from the agency - Humane Society, game warden, zoo representative, etc. - responsible for disposal of animals. Destruction of vicious animals should be guided by the same rules set forth for self-defense and defense and safety of others).

B. Officers will follow these guidelines when using firearms in the line of duty:

1. No distinction will be made relative to age or gender of the intended target of deadly force. Whether an imminent threat of death or serious bodily harm is present will be the only guideline for employing deadly force in defense of self or others.
2. A fleeing felon should not be presumed to pose an immediate threat of death or serious bodily injury if apprehension is delayed. The threat must exist based on the articulable facts and circumstances.
3. Shots will not be fired at or from a moving vehicle except in self-defense or defense of another. Firing of shots at a moving vehicle will only be done in circumstances which justify the use of deadly force and do not present an undue threat to persons in the area.
  - a. Officers shall avoid placing themselves in the path of an oncoming vehicle in a manner which would lead to the use of deadly force if at all possible.
  - b. If a confrontation with an oncoming vehicle does occur, officers shall move out of the path of the vehicle, if possible, rather than fire at the vehicle.
4. Caution must be exercised to ensure no innocent bystander is injured as a result of firing.
5. Warning shots will not be used by police officers in effecting any type of arrest.

#### IV. USE OF FORCE SUBJECT CATEGORIES AND OFFICER RESPONSES

Officers interact with five (5) types of subjects. Each subject category may require a different officer response depending on the subject's behavior. As a subject's behavior changes during the interaction, the officer's response must escalate or de-escalate accordingly. The officer's response to the subject interaction may be lower than the responses listed for the subject category. The officer's response should use the least amount of force necessary to control the subject.

A. **COOPERATIVE SUBJECTS:** Cooperative interactions with subjects are defined as interactions with another person to achieve a particular goal. No physical force is needed to gain cooperation. The majority of interaction with subjects fit into this category. Cooperative individuals respond in a positive way to Professional Presence and are easily directed with verbal requests and demands. Cooperative Subjects allow control or searching to take place with no resistance. General control is achieved by the use of nonverbal actions such as gestures, stance, and facial expressions.

##### **COOPERATIVE SUBJECT OFFICER RESPONSES:**

1. **Professional Presence:** The presence of an officer, either uniformed or plain clothes, acting in an official capacity, who have identified themselves by clothing, word, identification, or action.

2. **Non-verbal Directions/Commands:** This includes but is not limited to gestures, stances, and facial expressions.
3. **Verbal Commands:** Lawful orders given as direction to a subject to perform a specific action.
4. **Control, Handcuff, Search:** Escorting of a subject, handcuffing per OPD policy, and/or performing a pat-down or other lawful search of a subject.

**B. PASSIVELY RESISTIVE SUBJECTS:** Passively Resistive Subjects interact with officers by failing to follow lawful orders of the officers. Most commonly, these subjects will fail to complete a physical action upon lawful direction. An example of a Passively Resistive subject is one who, when lawfully ordered to do so, fails to place their hands behind their back for handcuffing purposes but offers no physical resistance.

**PASSIVELY RESISTIVE SUBJECT OFFICER RESPONSES:**

1. **Control Holds and Leverage Techniques:** Utilization of strength, body weight, and/or trained techniques to attempt to get or maintain a position of control over a subject.
2. **Strength Techniques:** A maneuver performed by an officer to overpower and take control of a subject without using strikes or pressure points, or takedowns.
3. **Pressure Points/Joint Locks:** Locations on the human body that will, with adequate pressure, cause temporary discomfort in the subject in order to make them vulnerable to specific arrest and control techniques.

**C. ACTIVELY RESISTIVE SUBJECTS:** Actively Resistant Subjects interact with officers by physically impeding the officer's effort to exert control over them. They may display a number of actions including, but not limited to the following: running away, pulling away, flailing their arms, circling to face an officer, and/or knowingly hiding from law enforcement efforts to locate them.

An Actively Resistive Subject may simply assume a stance or posture that would reasonably indicate the subject will physically resist efforts to secure, control, or handcuff the subject. In these cases, the subject need not appear to be attacking the officer; he/she is simply using active conduct to not allow the officer to exert control over them.

**ACTIVELY RESISTIVE SUBJECT OFFICER RESPONSES:**

1. **Empty Hand Techniques (Low Lethality Targets):** The use of various parts of an officer's body (without use of a weapon or tool) directed to Low Lethality target areas on a subject in an attempt to get or maintain a position of control over a subject.
2. **Electronic Control Device (ECD):** An ECD is a battery powered device that uses propelled wires and probes, or direct contact, to conduct sufficient electrical energy to affect sensory and motor functions of human and animal nervous systems. ECD's intended purpose is to temporarily incapacitate subjects and enable the officer to gain control without serious injury.
3. **Chemical Agent:** An approved chemical compound used to gain control of a subject. Chemical agents can be solid, liquid, or gaseous substance that on dispersion in the atmosphere irritates mucous membranes in the eyes, nose, mouth and lungs, and causes tearing of the eyes, sneezing, coughing, difficulty breathing, pain in the eyes, temporary blindness, etc.

4. **Takedown Techniques:** Manipulation of a subject's balance using force to move the subject to a grounded position to take control.
5. **Canine (K-9)/Police Service Dog (PSD):** A dog trained to aid the police, as in tracking subjects, detecting controlled substances, detecting explosives, recovering evidence, and assisting locating and/or physically apprehending subjects.
6. **Lateral Vascular Neck Restraint (LVNR):** A neck restraint technique that relies on lateral compression of the arterial and venous systems within the neck, rather than the airway. It is used by officers to stop physical resistance from a subject or to prevent the imminent destruction of evidence.

**D. ASSAULTIVE/HIGH-RISK SUBJECTS:** Assaultive/High-Risk interactions include those in which there is a threat or unsuccessful attempt to do physical harm to the officer or another person, causing a present fear of immediate harm; a violent physical attack; a situation in which the totality of articulable facts would cause a reasonable officer to believe that a significant and credible threat of violence exists. The assaultive individual threatens an assault, attempts an assault, or physically assaults an officer or another citizen. This category includes high-risk situations.

In Assaultive/High-Risk interactions, the likelihood of injury is reasonably present due to the assaultive actions or other significant threatened actions.

**ASSAULTIVE/HIGH-RISK SUBJECT OFFICER RESPONSES:**

1. **Impact Weapons:** An object intended to be used to strike a person's **Low Lethality Target Areas** in a manner to create temporary motor dysfunction or mental distraction by creating pain.
2. **Less-lethal weapons:** Weapons that are not reasonably likely to cause death or serious bodily injury. A weapon will be considered less-lethal even if its deployment may in rare cases cause injury that results in death under unique circumstances.
3. **Empty Hand Techniques (Vital Targets):** The use of various parts of an officer's body (without use of a weapon or tool) directed to **Vital Target Areas** on a subject in an attempt to get or maintain a position of control over a subject.

**E. LIFE-THREATENING/SERIOUS BODILY INJURY SUBJECTS:** The Life-Threatening /Serious Bodily Injury interactions encompass actions by suspects which are likely to immediately result in serious bodily injury or death of a person. These actions are reasonable cause for officers to use a deadly force response in self-defense, or the defense of others. Officers must continue to exercise caution that their use of deadly force does not unreasonably threaten the safety of fellow officers and innocent parties.

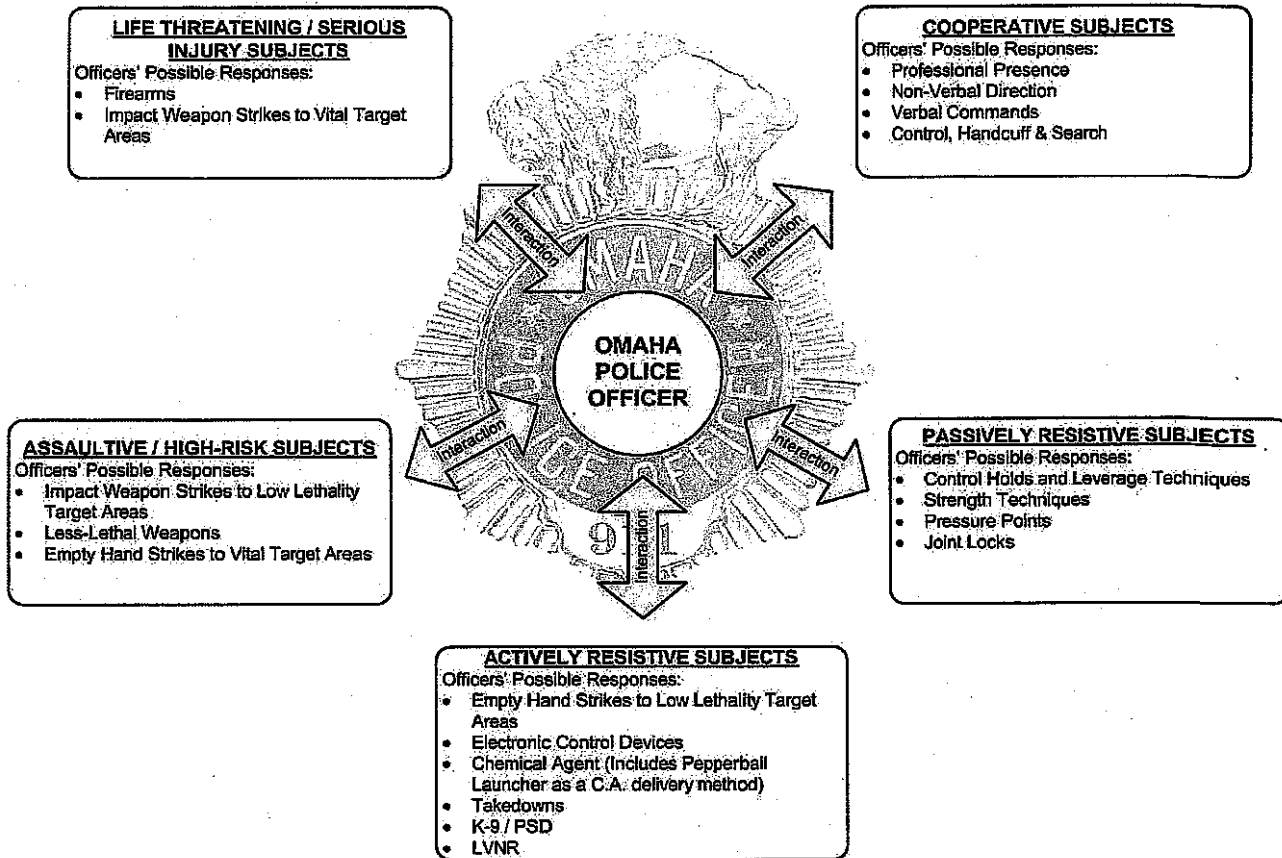
**LIFE-THREATENING/SERIOUS BODILY INJURY SUBJECT OFFICER RESPONSES:**

1. **Firearms:** A weapon, typically a pistol, rifle, or shotgun, capable of firing a projectile and using an explosive charge as a propellant.
2. **Impact Weapon strikes to Vital Target Areas.**

**V. OPD USE OF FORCE OPTIONS**

Officers may use the below techniques and weapons to control a subject. Officer responses may include techniques and weapons from a lower subject category than the current subject interaction.

The officer's response should not include techniques and weapons from a higher subject category than the current subject interaction.



## REFERENCES:

### I. Previous OPD Orders

- A. Previous OPD General Orders include #51-87, 2-95, 3-95, 34-95, 35-96, 6-99, 14-99, 38-99, 38-99, 11-14 Supplement #1, 15-01, 15-01 Supplement #1, 16-02, 24-04, 35-06, 35-06 Supplement #1, 27-07, 23-08, 26-09, 25-11, 12-12, 10-13, and 11-14.

## FORCE – USE OF FORCE REPORTING REQUIREMENTS

### PREAMBLE:

The Omaha Police Department strives to protect and serve all citizens and at the same time respect the rights of suspects and balance the need for officer safety. The Omaha Police Department believes any use of force should be thoroughly and accurately documented by each responding officer.

### POLICY:

The Omaha Police Department (OPD) will collect data on arrests involving the use of physical force by officers. The information collected will be used for management purposes, to assess future training needs and to comply with accreditation standards. Officer responses from the Actively Resistive Category or higher require further scrutiny due to the risk of injury to both the citizen and officer.

### PROCEDURES: