



GENERAL ORDER

Loudoun County Sheriff's Office

Chapter: Operations

Section: 403.1

Subject: Response to Resistance

Topic: Response to Resistance Guidelines

Enacted: 12/7/2016

Last Review: 04/02/2024

Review: 01/01/2025

I. PURPOSE

The purpose of this General Order is to establish policy and procedures governing the response to resistance by sworn members of the Loudoun County Sheriff's Office. The reverence and respect for the dignity of all persons and the sanctity of human life shall guide all training, leadership, and procedures, as well as decisions made by deputies regarding the response to resistance. The intent of this General Order is to provide guidelines governing the response to resistance by sworn members of the agency and to prohibit the imprudent use of such force so that loss of life or serious bodily harm can be held to a minimum.

II. POLICY

It shall be the policy of the Sheriff's Office to maintain stringent guidelines on the response to resistance by agency members. Deputies shall comply with the general provisions of the Constitution of the United States, as the response to resistance on citizens has been construed by the courts to be a seizure under the Fourth Amendment and therefore subject to the [objectively reasonable](#) standard. Deputies shall be trained in approved methods of force applications and the agency's response to resistance policy prior to assignment to duties where response to resistance may be required. Deputies acting within their official capacity may use only that amount of force which is reasonable and [necessary](#) to effect lawful objectives. Justifications for using force are those facts known or perceived by a deputy at the time force is utilized, without an application of hindsight. Deputies shall act in good faith when using force to conform to legal standards and the requirements of this General Order.

III. GENERAL

Performance of law enforcement, correctional, or court functions raises the possibility that at any given time and under circumstances of necessity, deputies may be called upon to use less lethal and/or [deadly force](#) in the performance of their duties.

There is a compelling public interest that deputies authorized to exercise the response to resistance do so in an objectively reasonable manner and in a way that does not violate the civil rights guaranteed by our Constitution and applicable law. Deputies who use excessive or unjustified force degrade the confidence of the community that they serve, undermine the legitimacy of a deputy's authority, and hinder the Sheriff's Office ability to provide

effective law enforcement, correctional, and court services to the community. Deputies who use excessive or unauthorized force shall be subject to discipline, possible criminal prosecution, and/or civil liability. Accordingly, the Sheriff's Office will thoroughly review and/or investigate all uses of force by deputies to assure compliance with all legal requirements and this policy.

Deputies who are involved in or witness a [response to resistance](#) incident shall document the incident in an IBR report or supplement. All response to resistance incidents shall be investigated in accordance with General Orders [403.13](#) and [302](#).

Within the first 30 days of employment, all deputies shall receive initial training in the response to resistance, law of arrest, firearms, and the duty to intervene. The written instructions, at a minimum, shall include this General Order and the General Orders pertaining to Firearms (in both sections 402 and 404). Sworn personnel shall sign a statement that they have received and understood the contents of this General Order. That statement shall become a permanent part of the employee's personnel record.

Prior to the issuance of any weapon (including less lethal), the Training Section shall ensure that each new deputy receives and demonstrates an understanding of written instructions detailing the response to resistance. Before issuance and use of any weapons, including less lethal weapons, ASP expandable batons and Oleoresin Capsicum spray ("OC"), sworn personnel shall attend and successfully complete all required certification courses taught by Department of Criminal Justice Services certified instructors.

In addition to the initial training requirements deputies shall receive on-going yearly training in the response to resistance and the duty to intervene. Deputies shall receive training on all issued less-lethal weapons, at a minimum, biennially.

IV. PROCEDURE

A. Force response(s) to resistance shall be de-escalated immediately upon recognition that resistance has decreased, or compliance has been obtained.

1. When feasible or safe to do so, based on the circumstances, deputies may consider strategic/tactical [disengagements](#); area containment; surveillance; waiting on a subject; summoning reinforcements; and/or calling in specialized units, to reduce the need for force and thereby increase deputy, suspect, and civilian safety.

B. Resistance

1. Resistance is manifested by a subject who attempts to evade or interfere with a deputy's attempt to control. Resistance is an action directed at a deputy by a

subject. The amount and type of resistance will vary based on the actions of a subject. Resistance can be categorized into four broad areas:

a) Passive resistance

Passive resistance is a subject's verbal and/or physical refusal to comply with a deputy's lawful direction, causing the deputy to use physical techniques to establish control. Some examples of passive resistance include:

- i. The subject refuses to move at the deputy's direction.
- ii. The subject refuses to take his/her hands out of his/her pockets or from behind his/her back when given a lawful verbal command.

b) Active resistance

Active resistance is a subject's use of physically evasive movements directed toward the deputy, such as bracing, tensing, pushing, or pulling to prevent the deputy from establishing control over the subject. Some examples of active resistance include:

- i. The subject physically anchors him/herself to a person or object to prevent him/herself from being moved by the deputy.
- ii. The subject braces or pulls away from the deputy's grip on the subject's arm.
- iii. The subject attempts to avoid controls or flee when the deputy touches or attempts to grab him or her.

c) Aggressive resistance

Aggressive resistance is a subject's attacking movements toward a deputy that may cause injury but are not likely to cause death or [great bodily harm](#) to the deputy or others. Some examples of aggressive resistance include:

- i. The subject balls up his/her fist and approaches the deputy.
- ii. The subject pushes or otherwise assaults the deputy as the deputy tries to take the subject into custody.
- iii. The subject grabs any part of the deputy's body.

d) Deadly resistance

Deadly resistance is a subject's hostile, attacking movements, with or without a weapon, that create a perception by the deputy that the subject intends to cause, and has the capability of causing, death or great bodily harm to the deputy or others. A deputy uses three criteria for deciding to use force against deadly resistance:

- i. Ability: A deputy must determine whether the subject has the necessary means to cause death or great bodily harm to the deputy or others. "Ability" refers to the subject having the means to carry out his/her intent to cause death or great bodily harm.
- ii. Intent: A reasonably perceived, [imminent threat](#) to a deputy or another person based on the subject's actions, behaviors, words, or other indicators. Intent is a perception derived from the [totality of the circumstances](#).
- iii. Opportunity: The subject can carry out an intention to cause death or great bodily harm to the deputy or others. The subject's weapon often determines opportunity. However, it must be remembered that the wielding of a weapon by the subject is not a requirement for the perception of deadly resistance. Subjects who are physically conditioned or motivated and trained to cause extreme injury may have the intent and capability to cause death or great bodily harm via hand-to-hand combat attacks.

C. Guidelines for Response to Resistance

These guidelines provide a framework for deputies when assessing the circumstances presented to make a reasonable decision involving the response to resistance.

1. A deputy's response to resistance shall be based upon his/her perception of the resistance and ability to overcome the resistance and gain control of a subject. When considering or evaluating the application of a force response, deputies will consider and know the totality of the circumstances. This may include the following factors to determine the appropriate application of policy and each reasonably necessary force response:
 - a. Threat perceived by a reasonable deputy at the time or whether the subject poses an imminent threat to the safety of the deputies or others in a tense, uncertain, or rapidly evolving event.
 - b. Severity of the crime or correctional security problem at issue.

- c. Need for a force response as appropriate to the perceived threat to accomplish a legitimate and lawful action.
 - d. The amount of force used in relation to the need for force. The degree a deputy responds to resistance should be in direct relationship to the amount of resistance exerted or the immediate threat to deputies or others.
 - e. Efforts made to temper the severity of the forceful response (opportunity for compliance).
 - f. Considerations of injuries or physical conditions of those involved.
 - g. Whether the subject is currently resisting or evading.
2. There are occasions where the aforementioned considerations apply, and deputies are authorized to use only the amount of force necessary to accomplish lawful objectives. Force may be used by a deputy to:
- a) Stop potentially dangerous and unlawful behavior.
 - b) Protect a deputy or another from injury.
 - c) Stop an unlawful assault and defend themselves or others from harm.
 - d) Complete the process of an investigation, maintain the safety and security of a correctional facility, or while affecting a lawful arrest when a subject offers a degree of resistance.
 - e) Take non-criminal subjects or persons into emergency custody when authorized by law, such as persons who pose an imminent danger to themselves or others, when a person is currently experiencing a medical emergency that rendered them obviously incapable of making a rational decision under the circumstances and that necessitated some reasonable force application to ameliorate the immediate threat, not excessively applied.
3. Deputies should strive to use the reasonable amount of effective force practicable to effect control over a subject; however, they need not apply force in gradually increasing steps to justify [physical control](#) or even deadly force. Instead, deputies need to respond with all the force necessary for the circumstances in each specific situation. As soon as compliance and control are reached, a deputy must de-escalate his/her response to a reasonable amount of effective force necessary to control a subject.

4. Each succeeding response to resistance should include circumstances of previous responses, when applicable, such as when ineffective applications of force are not successful. This would also include resistance control techniques or verbal communications, direction, and/or any acknowledgement or verbal indications that the resistor is or intends on disobeying commands.
5. Additional Factors Affecting Appropriate Response to Resistance Responses
 - a) In properly determining the appropriate response to a subject's resistance, a deputy must evaluate several factors, including levels of resistance, suspect's behavioral cues, the number of deputies and/or offenders present, and the availability of other options. Force shall never be used to subject a person to torture and/or other cruel, inhumane or degrading treatment or punishment.
 - b) It should be remembered that a deputy need not retreat in his/her effort to lawfully control a subject but may utilize the amount of force necessary to accomplish his/her lawful duties as a law enforcement officer. A temporary tactical retreat in the face of overwhelming odds, however, may be the wisest choice depending on the situation presented. The deputy should consider risk factors against the immediate need for control with the ability to gain advantages for additional time and resources.

D. Authorized Response to Resistance

Depending upon the resistance encountered, deputies may use force that escalates from verbal commands to the use of a firearm.

1. Use of [Less-Lethal Force](#)
 - a) For the resolution of incidents, deputies should utilize agency-approved defensive tactics and [less-lethal weapons](#), but only those for which they have been trained, qualified and certified as determined by the agency's training procedures.
 - b) To avoid injury to deputies, hand-to-hand confrontations should be avoided whenever possible in situations where increased force is justified.
 - c) When a confrontation escalates suddenly, deputies may use any means or device at hand as an alternative weapon to defend themselves, if the force is reasonable, given the existing circumstances.
2. [De-escalation](#), Mitigation, and Verbal Skills

- a) The direction and result of most encounters with subjects can be controlled by good communication skills on the part of a deputy. However, allowing for, or accomplishing, de-escalation is contingent upon the behavior of the subject or suspect. In most encounters, the mere presence of a deputy and proper verbal direction will be sufficient to de-escalate potential problems and allow a deputy to execute his/her duty.
- b) Good communication skills and de-escalation techniques can prevent many physical confrontations from escalating to higher resistance. Deputies are encouraged to consciously develop and practice good communication and de-escalation skills as part of their basic proficiency in law enforcement techniques.
- c) De-escalation techniques are particularly important when dealing with crisis situations involving irrational, unpredictable, intoxicated or suicidal persons. De-escalation may help deputies stay focused, calm, and collect important information during a crisis to bring chaotic moments to as peaceful a resolution as possible.
- d) Deputies are not required to delay taking protective measures that are immediately necessary or to place themselves or others at imminent risk of harm to attempt de-escalation methods. However, they may consider the following options that might minimize, temper, or avoid the need for force, when feasible and safe to do so:
 - i. Using a non-threatening, non-confrontational tone of voice.
 - ii. Slowing down the pace of an incident.
 - iii. Waiting to act until the threat subsides.
 - iv. Placing additional space or barriers between the officer and a person.
 - v. Permitting a person to ask questions or engage in conversation.
 - vi. Tactical repositioning or seeking cover.
 - vii. Requesting additional resources.
- e) De-escalation is a desired outcome that is most effective when done purposefully, with patience and flexibility. These techniques should only be employed when circumstances permit, and it is safe to do so.

3. Handcuffs and Restraints

- a) The types of restraints authorized to be utilized by deputies are limited to double-locking handcuffs, leg shackles, belly chains, flex cuffs, transport cuffs, and hobble restraints.
- b) The purpose of handcuffs, flex cuffs, and transport cuffs is to restrain the movement of a subject in a manner that allows a safe means for transporting that subject. Restraining devices also can be used to prevent further resistance from a subject. Whatever the application, restraining devices should be considered temporary in nature and a means for safely achieving other goals.
- c) Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the deputy, or another person. In these situations, only the minimal amount of force necessary to control the situation shall be used.

4. Empty-Hand Controls

- a) "Soft" empty-hand controls such as gentle touching, escort holds, pressure point controls and the like are appropriate for use against passive resistance and some forms of active resistance.
- b) "Hard" empty-hand controls are appropriate for use against some forms of active resistance and against all forms of aggressive or deadly resistance. Techniques that fall into this category have a higher probability of creating soft or connective tissue damage, skin lacerations, or bone fractures which require medical attention. Techniques that are considered "hard" empty-hand tactics include stunning and striking actions delivered to a subject's body with the hand, fist, forearm, leg, or foot. Preferably, the target for these tactics will be major muscle structures such as the legs, arms, or shoulders. Strikes delivered to such muscle structures may create muscle cramping, thus inhibiting muscle action and allowing a deputy to bring a subject under control. However, in extreme cases of self-defense, a deputy may need to strike more fragile areas of the body where the potential for injury is even greater.

5. Less-lethal Weapons

- a) Less-lethal weapons are defined as agency-approved tools which provide a

method for controlling a subject when use of deadly force is not justified but empty-hand control techniques are not enough for controlling a subject. Whenever a deputy uses a less-lethal weapon for control, it should be used with the intent to temporarily disable the subject's ability to resist to create opportunity for controls and never with the intent of creating a permanent injury.

- b) The Sheriff's Office approved less-lethal weapons are the ASP expandable baton, chemical defense equipment, less-lethal munitions, TASER, canine bite, and other equipment as issued, trained, and certified by the training section.
- c) Deputies shall receive classroom training on less-lethal weapons at least biennially to discuss agency policy and/or demonstrate continued proficiency and knowledge of these weapons. Minimally, this training will be accomplished during one of each year's semi-annual firearms training or another designated time during the same year. A certified instructor will conduct the training. Records of attendance for less-lethal weapons training shall be placed in each deputy's electronic training file, which is maintained by the agency's Training Section.
- d) Less-lethal weapons may only be deployed when there is an [exigent](#) and immediate safety risk that is reasonably likely to be resolved by using that weapon.
 - i. A subject's/suspect's erratic and/or suspicious behavior, or mental illness alone, does not necessarily create a safety risk.
- e) The proper deployment of a less-lethal weapon is defined in the General Orders specific to that less-lethal weapon. Those General Orders contain guidance on the proper deployment method, documentation required, evidence collection, subject medical care and supervisor responsibilities. All less-lethal weapons shall be deployed in accordance with the LCSO training protocols governing that specific less-lethal weapon.

6. Use of Deadly Force

The Sheriff's Office policy regarding the use of deadly force shall be as follows:

- a) Deputies may use deadly force only when they reasonably believe that such action is in defense of human life, including their own lives, or in defense of any person in imminent danger of death or great bodily harm. Justifications for using deadly force are those facts known or perceived by a deputy at the

time force is utilized.

- b) Where feasible, the deputy shall identify himself or herself as a law enforcement officer and warn of his or her intent to use deadly force.
- c) Deadly force may be used to apprehend a fleeing suspect if all other means of affecting an arrest have been exhausted and the deputy has probable cause to believe and reasonably believes that the escape of the suspect will present a threat of serious physical harm or death to the deputy or others. Mere suspicion that the person committed a crime is insufficient to warrant the use of deadly force. The deputy must have knowledge that a crime was committed and that the person fleeing arrest committed it. The U.S. Supreme Court has addressed the use of deadly force to apprehend fleeing suspects in *Tennessee v Garner*.
- d) When a deputy discharges a weapon at a suspect with the intent to employ deadly force and the projectile does not strike the suspect, it is still considered use of deadly force and shall be investigated accordingly.
- e) Deputies shall not fire warning shots.
- f) Deputies shall not discharge a weapon at or from a moving vehicle except under the most aggravated circumstances.
- g) [Neck Restraints](#) are prohibited unless deadly force is reasonably necessary and objectively appropriate.
- h) The investigation of the use of deadly force shall be conducted in accordance with General Order 403.12, Investigation of Use of Deadly Force.

E. Duty to Intervene:

Deputies have an affirmative duty to intervene if they observe any other law enforcement officer using force that is clearly beyond that which is objectively reasonable under the circumstances or acting in violation of Federal or State law, General Orders, Standard Operating Procedures, or policy, and shall safely intercede to prevent the use of [excessive force](#). Any employee, sworn and non-sworn, shall promptly report and notify a supervisor or commander of any such suspected excessive force incident. Any deputy who observes another using or attempting to use excessive force against another person shall, when in a position to do so:

1. Safely intercede.
2. Render aid to any injured person, and

3. Immediately notify an on-duty supervisor.

Deputies who are involved in or witness a [force response](#) that does or should result in an intervention shall document the incident in a written report with the nature of the intervention or need for intervention. A non-involved supervisor shall initiate an inquiry into the duty to intervene in addition to the response to resistance as required by [General Order 403.13](#). The investigation shall be reviewed by the deputy's chain of command and the Sheriff or his/her designee and may be referred to the Internal Affairs Unit or another investigative entity, depending on the circumstances.

Retaliation against any agency employee who reports or cooperates in a suspected use of excessive force review or investigation is strictly prohibited and considered serious misconduct.

F. Medical Attention:

Deputies have a duty to render aid once the scene is safe and as soon as practical. A deputy shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

1. Deputies shall ensure that all prisoners or citizens, against whom force was used, are asked whether they are injured or ill.
2. An arrestee, pre-trial detainee, or convicted inmate shall be examined by a physician, qualified health care professional, nurse, or an EMS provider prior to any interrogation or prisoner processing for purposes of detention when suffering from, or complaining of, injury or illness or when, among other instances, the subject:
 - a. Is struck on the head with an impact weapon or other hard object.
 - b. Is restrained about the neck or throat.
 - c. Is sprayed with a chemical agent.
 - d. Is subject to an application of the TASER/CEW.
 - e. Is struck with any non-lethal projectile/munitions such as a bean bag; or
 - f. Is bitten by a canine.

3. An injured subject or arrestee shall not be admitted to, or held in, the Adult Detention Center without being examined and released by a physician or qualified health care provider.
 - a) Whenever there is a doubt concerning the need for medical attention, the issue shall be resolved through an examination of the subject by a physician or qualified health care provider.
 - b) All refusal of treatment shall be documented in the arrest or incident report and verified by the officer and attending physician or qualified health care provider.