

RESPONSE TO RESISTANCE – USE OF FORCE

PREAMBLE:

The Omaha Police Department (OPD) places the highest priority on the sanctity of human life, and requires OPD officers to act with the foremost regard for the preservation of human life, and the safety of all persons involved. Inappropriate or excessive use of force is not only fundamentally wrong, it damages public partnerships and diminishes the public trust that is a cornerstone of policing in a free society.

OPD officers are granted the responsibility and authority to apprehend criminal offenders and protect life and property, and are vested with lawful authority to use force to protect public welfare. The OPD seeks to gain subjects' voluntary compliance, when consistent with personal safety, to eliminate the need to use force, or to reduce the force that is needed. Officers are expected to utilize de-escalation techniques to provide themselves with more flexibility during potential use of force situations; however, the OPD recognizes officers are often forced to make split-second decisions about the amount of force, if any, that is necessary in a particular situation, in circumstances that are tense, uncertain, and rapidly evolving. This requires a careful balancing of competing interests, but apprehension of criminal offenders must, at all times, be subordinate to the protection of innocent human life.

POLICY:

It is the policy of the Omaha Police Department (OPD) that 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. Furthermore, it is the policy of the OPD that officers will use appropriate de-escalation techniques during potential use of force situations, will safely intervene when possible to stop any observed unreasonable force incidents, and will promptly report any observed unreasonable force incidents to a supervisor. 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. Officers maintain the right to self-defense and have a duty to protect the lives of others, and nothing in this policy requires officers to take actions, or fail to take actions, that unreasonably endanger themselves or others.

DEFINITIONS:

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

De-escalation: The strategic slowing down of an incident in a manner that allows officers more time, distance, space and tactical flexibility during dynamic situations.

Duty to Intervene: The responsibility incumbent upon OPD officers, when a reasonable opportunity exists, to stop or make every reasonable effort to stop a fellow officer from using force that is clearly beyond that which is objectively reasonable under the circumstances.

Duty to Report: The responsibility incumbent upon OPD officers who intervene in a fellow officer's excessive or unreasonable force incident, or officers who otherwise witness such an incident, to promptly (1) report their observations to a supervisor, and (2) document their observations and actions on a Chief's Report (OPD Form 214).

First-Aid: Care or treatment given to an ill or injured person before regular medical aid can be obtained. It usually consists of one-time, short-term treatment, such as bandaging cuts, applying a tourniquet to stop heavy bleeding, and providing hands-only CPR, etc.

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

Involved Officer: Any officer who uses force and/or discharges a weapon, and their actions result in the serious bodily injury or death of a subject.

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*. 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, the joints, the kidneys and, as described herein, areas of the head.

PROCEDURE:

I. Officer Priorities, Variables, and Options

- A. The OPD's highest priority is the sanctity of human life. In all aspects of their conduct, OPD officers shall act with the foremost regard for the preservation of human life and the safety of all persons involved.
 - 1. When safe under the totality of circumstances, and when time and circumstances permit, officers will use or attempt to use de-escalation techniques consistent with their training to provide themselves with more time, distance, space, and tactical flexibility in potential use of force situations.
 - 2. Officers will render first-aid to subjects who have been injured as a result of police actions, as is consistent with their training, and will promptly request medical assistance.
- B. OPD officers will demonstrate the highest degree of ethical behavior and professional conduct at all times.
- C. In determining what degree of force is objectively reasonable, officers shall evaluate the totality of circumstances at the time of the event, including, but not limited to, the following.
 - 1. The seriousness of the crime.
 - 2. The level of threat or resistance presented by the subject.
 - 3. The danger presented, including whether or not the subject poses an immediate threat to the safety of the officer(s) or others.
- D. The OPD 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.

- E. 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 subject, 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.
- F. The use of excessive or unwarranted physical force is prohibited and will not be tolerated.
 - 1. Officers have a duty to intervene, if a reasonable opportunity exists, when they witness a fellow officer using force that is clearly beyond that which is objectively reasonable under the circumstances, in an effort to stop or attempt to stop the officer from using such force.
 - 2. Officers who intervene in an excessive or unreasonable force situation, or who otherwise witness such an incident, have a duty to report their observations by promptly informing a supervisor of the incident, and documenting their observations and actions on a Chief's Report (OPD Form 214).
- G. When appropriate, a supervisor will promptly respond to the scene during incidents that require a multiple-officer response (See "[Radio Procedures - Dispatch, Talk Groups, and Call Prioritization](#)" policy).
 - 1. If an "In Progress" or "Just Occurred" radio call or officer-initiated incident requires dispatch of more than two (2) officers, 911 will notify and dispatch the area sergeant, if available, to act as a third responder to the call.
 - 2. When three (3) or more officers are dispatched to any radio call or officer-initiated incident, regardless of the call/incident priority status, a supervisor shall be dispatched to the scene.

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 others, from physical harm.
 - 2. Restrain or subdue a resistant individual.
 - 3. Bring an unlawful situation effectively and safely under control.
- C. The OPD does not authorize the use of choke holds, and officers are expressly prohibited from using any type of choke hold against a subject.

III. Defense of Life

- A. Officers may use a firearm or other deadly force in the performance of their duties to defend themselves or others from what is reasonably believed to be imminent threat of death or serious bodily injury.

- 1. Officers are prohibited from using deadly force against individuals who pose a danger only to themselves.

NOTE: This prohibition is not intended to limit officers' options to respond when a potentially self-harming subject demonstrates behavior that also endangers officers or other persons.

- B. Before using a firearm or other deadly force in defense of self or others, officers will attempt to give loud verbal warnings/commands, if possible.

NOTE: Due to the complexity of deadly force confrontations, the ability to give verbal commands may not be feasible in all situations.

IV. Use of Deadly Force to Make a Lawful Arrest

- A. The justification for the use of deadly force to make a lawful arrest is extremely limited. Officers shall strictly adhere to the Nebraska Statutory guidance below.

- B. The use of deadly force to make a lawful arrest is NOT justifiable per [NRS §28-1412](#) unless:

- 1. The arrest is for a felony.

– AND –

- 2. Such person making the arrest is authorized to act as a peace officer or is assisting a person whom they believe to be authorized to act as a peace officer.

– AND –

- 3. The officer believes that the force employed creates no substantial risk of injury to innocent persons.

– AND –

- 4. The officer believes that:

- a. The crime for which the arrest is made involved conduct including the use or threatened use of deadly force.

– OR –

- b. There is substantial risk that the person to be arrested will cause death or serious bodily harm if the apprehension is delayed.

- C. A fleeing felon shall not be presumed to pose an immediate threat of death or serious bodily injury if apprehension is delayed. The threat shall exist based on additional and separate articulable facts and circumstances.

- D. Before using a firearm or other deadly force to make a lawful arrest, officers will attempt to give loud verbal warnings/commands, if possible.

NOTE: Due to the complexity of deadly force confrontations, the ability to give verbal commands may not be feasible in all situations.

V. Use of Firearms

A. In addition to the reasons listed above, officers may use a firearm in the performance of their duties to:

1. Give alarm, or call for assistance, when no other means is available.
2. Kill a dangerous animal, or kill an animal so badly injured that humanity requires its removal from further suffering.

NOTE: All attempts will be made to request assistance from the agency (i.e., Humane Society, game warden, zoo representative, etc.) responsible for disposal of animals. Destruction of vicious animals will 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.
 - a. The only guideline for employing deadly force in defense of self or others will be whether or not an imminent threat of death or serious bodily harm is present.
2. Officers shall not discharge their firearm at or from a moving vehicle unless one of the following situations exists.
 - a. A person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle.
 - b. The vehicle is being used as a weapon to cause a mass casualty event (i.e., driving into a crowd).
 - c. The officer is unable to retreat for a reason that is clearly articulable.

NOTE: The moving vehicle itself does not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle will, when possible, move out of its path instead of discharging a firearm at the vehicle or any of its occupants.

3. Caution shall be exercised to prevent injury to innocent bystanders as a result of firing a firearm.
4. Warning shots will not be used by officers in effecting any type of arrest.
5. The playful drawing or unnecessary exhibition of any weapon is forbidden.

VI. Use of Force Subject Categories and Officer Responses

A. Officers interact with five (5) types of subjects. Each subject category may require a different officer response depending on the subject's behavior.

1. As a subject's behavior changes during the interaction, the officer's response must escalate or de-escalate accordingly.

2. The officer's response to the subject interaction must be reasonable based on the officer's perception of the totality of circumstances at the time.
 3. The officer's response will use the least amount of force necessary to control the subject.
 4. Officers shall be cognizant that not all persons respond to use of force and/or pain compliance techniques in the same manner. When any officer response technique, after repeated attempts, does not appear to be effective, officers will consider alternative officer response techniques or methods, including de-escalation, to control the subject/situation.
- B. Cooperative Subjects: Cooperative Subjects interact with officers by following lawful orders, and working with officers to achieve a particular goal. No physical force is needed to gain cooperation. The majority of interactions 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 non-verbal actions, such as gestures, stance, and facial expressions.
1. Cooperative Subject officer responses may include the following:
 - a. 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.
 - b. Non-verbal Directions/Commands: This includes but is not limited to gestures, stances, and facial expressions.
 - c. Verbal Commands: Lawful orders given as direction to a subject to perform a specific action.
 - d. Control, Handcuff, Search: Escorting of a subject, handcuffing per OPD policy, and/or performing a pat-down or other lawful search of a subject.
- C. Passively Resistive Subjects: Passively Resistive Subjects interact with officers by failing to follow the 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.
1. Passively Resistive Subject officer responses may include the following:
 - a. 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.
 - b. Strength Techniques: A maneuver performed by an officer to overpower and take control of a subject without using strikes or pressure points, or takedowns.
 - c. Pressure Points/Joint Locks: Locations on the human body that will, with adequate pressure, cause temporary discomfort to subjects in order to make them vulnerable to specific arrest and control techniques.
 - d. Electronic Compliance GLOVE (Compliant GLOVE): A battery powered glove

that, when activated, uses direct skin contact to produce pain compliance or neural peripheral interference (NPI), which makes it difficult for the subject to perform coordinated movements. This enables the officer to gain control of the subject without serious injury to the subject or officer. (GLOVE is an acronym for Generated Low Output Voltage Emitter.)

- (1) When deactivated, the Compliant GLOVE has no electronic control utility, and functions as a normal glove.

NOTE: Officers who use a Compliant GLOVE against Passively Resistive Subjects shall articulate in the Chief's Report why lesser officer response would have been ineffective.

- D. 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.
1. 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; but is simply using active conduct to not allow the officer to exert control over them.
 2. Actively Resistive Subject officer responses may include the following:
 - a. 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.
 - b. 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. The ECD's intended purpose is to temporarily incapacitate subjects and enable the officer to gain control without serious injury.
 - c. Chemical Agent: An approved chemical compound used to gain control of a subject. Chemical agents may be a 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.
 - d. Pepperball Launcher: Pepperball is a system that consists of a launcher and chemical agent projectiles. The projectiles contain a live active irritant compound engineered to burst on impact into a temporarily incapacitating cloud with no harmful after-effects. The purpose is to deploy the projectiles to saturate an area to gain control of a subject(s) and enable the officer to gain control without serious injury. Pepperball may also be used as a direct impact device for pain compliance.
 - e. Takedown Techniques: Manipulation of a subject's balance using force to move the subject to a grounded position to take control.
 - f. Canine (K-9)/Police Service Dog (PSD): A dog trained to aid the police by tracking subjects, detecting controlled substances, detecting explosives, recovering evidence, and assisting in locating and/or physically apprehending

subjects.

- g. Impact Weapons: An object intended to be used to strike a subject's Low Lethality Target Areas in a manner to create temporary motor dysfunction or mental distraction by creating pain.

NOTE: Officers shall articulate in the Chief's Report why lesser officer response would have been ineffective against Actively Resistive Subjects when an ECD or less-lethal launcher is used.

E. Assaultive/High-Risk Subjects: Assaultive/High-Risk Subject interactions include those in which there is a threat or unsuccessful attempt to do physical harm to the officer or others, 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 others. This category includes high-risk situations.

- 1. In Assaultive/High-Risk interactions, there is a reasonable likelihood of injury due to the assaultive actions or other significant threatened actions.
- 2. Assaultive/High-Risk Subject officer responses may include the following:
 - a. Impact Weapons: An object intended to be used to strike a subject's Low Lethality Target Areas in a manner to create temporary motor dysfunction or mental distraction by creating pain.
 - b. 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.
 - c. 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.
 - d. Vascular Neck Restraint (VNR): Neck restraint technique that relies on bilateral compression of the arterial and venous systems at the sides of the neck, rather than the airway.

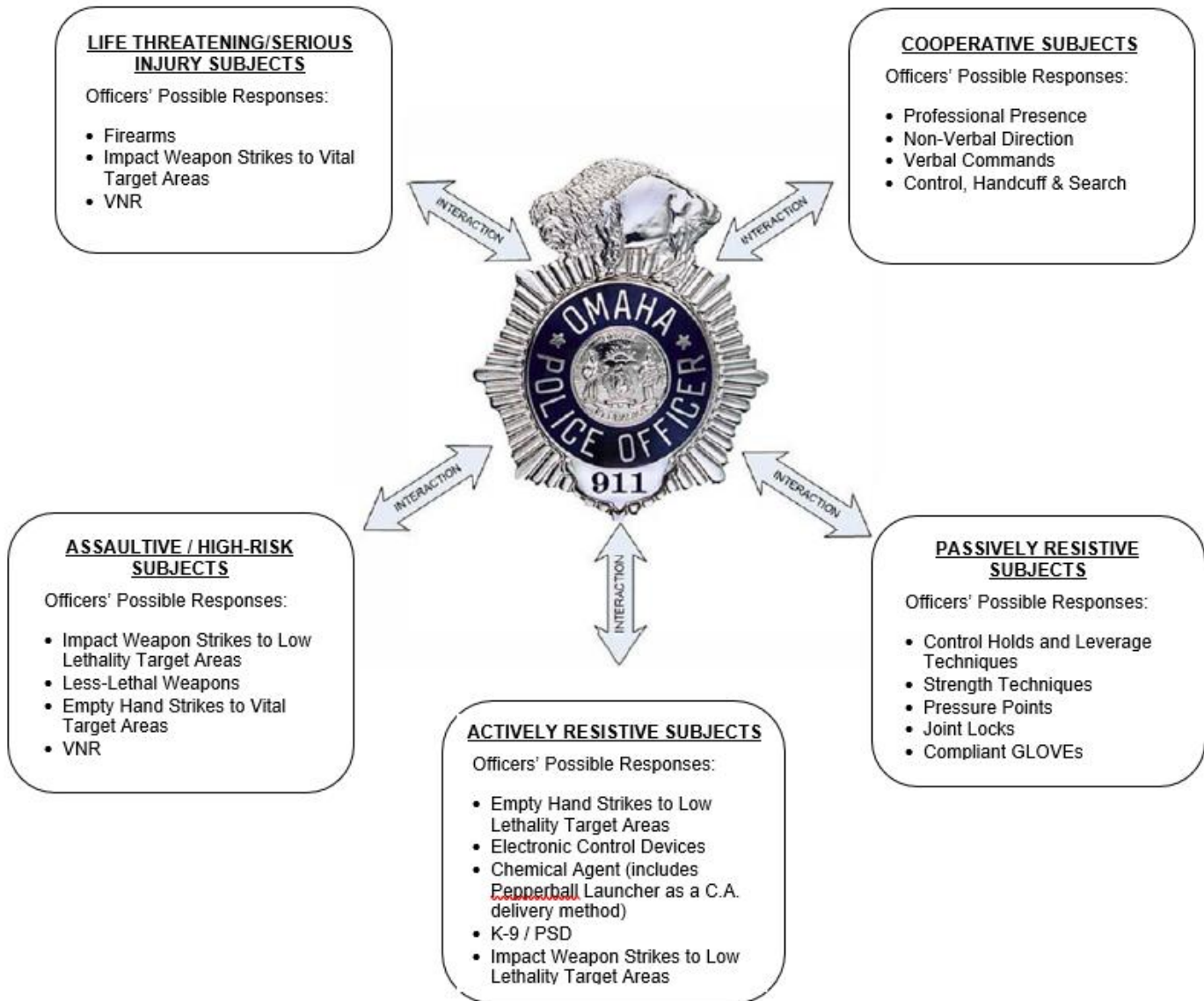
F. Life-Threatening/Serious Bodily Injury Subjects: Life-Threatening/Serious Bodily Injury Subject interactions encompass actions by suspects that are likely to immediately result in serious bodily injury or death of a person. These actions are reasonable cause for officers to use a deadly force response in self-defense or the defense of others. Officers shall continue to exercise caution that their use of deadly force does not unreasonably threaten the safety of fellow officers and/or innocent parties.

- 1. Life-Threatening/Serious Bodily Injury Subject officer responses may include the following:
 - a. Firearms: A weapon, typically a pistol, rifle, or shotgun, capable of firing a projectile and using an explosive charge as a propellant.
 - b. Impact Weapon strikes to Vital Target Areas.
 - c. Vascular Neck Restraint (VNR): Neck restraint technique that relies on bilateral compression of the arterial and venous systems at the sides of the neck, rather

than the airway.

VII. OPD Officers' Use of Force Options

- A. Officers may use the below-illustrated techniques and weapons as general guidelines on how to control a subject; however, officers are reminded that these guidelines may not cover every possible scenario.
- B. Officers must use reasonable force based on their perception of the totality of circumstances at the time.



REFERENCES:

I. Court Cases

- A. *Graham v. Connor*, 490 US 386, 395, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989).

II. Nebraska Revised Statutes (NRS)

- A. Relevant Nebraska Revised Statutes: NRS §[28-1412](#) and §[28-1414](#).

III. Previous OPD Orders

- A. Previous General Orders: #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, 11-14, 66-15, 19-16, 115-16, 41-18, 41-18, 17-20, 17-20 Supplement #1, 027-20, 22-23, and 59-25.

IV. Accreditation Standards

- A. Relevant CALEA Accreditation Standards: 1.2.2, 1.2.10, 4.1.1, 4.1.2, 4.1.3, 4.1.5, 4.1.6, 4.1.7.

V. Other

- A. Chicago Police Department's "Use of Force" policy.

VI. 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.