

GENERAL ORDERS | SOUTH MIAMI POLICE DEPARTMENT



G.O. Number: 1.3	Subject: Use of Force / Response to Resistance / Weapons	
Chapter: 1 Response to Resistance / Weapons	Number of Pages: 39	
CFA Standard(s): 4.01M, 4.02M, 4.03M, 4.04M, 4.05M, 4.06M, 4.07M, 4.08M, 4.09M, 410M, 10.10M, 15.21M	Effective: 06/01/2024	
By Order of Chief of Police: Reo B. Hatfield III		Revised: 03/20/2024 Status: Amended

SECTIONS:

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RESCINDS: Any other existing orders in conflict.

PURPOSE: To establish a Response to Resistance / Use of Force procedures and provide South Miami Police Officers with guidelines for using less-lethal and deadly force.

SCOPE: All departmental personnel.

POLICY: The South Miami Police Department (SMPD) recognizes the value of human life and is committed to respecting the dignity of every individual. SMPD places significantly greater value on the preservation of life than on the protection of property. Accordingly, the sanctity of human life is central to the Department's mission, policies, training, and tactics.

South Miami Police Department officers shall only use force that is objectively reasonable to effectively bring an incident under control while protecting the safety of the officers and others. Officers shall use force only when no reasonably effective alternative appears to exist and shall use only the level of force that a reasonably prudent officer would use under the same or similar circumstances.

The South Miami Police Department's Response to Resistance policy is governed both by case law interpreting the U.S. Constitution (i.e.: *Graham v. Conner*, 490 U.S. 386 – 1989) and Chapter 776 of the Florida Statutes governing the justifiable use of force. It must be noted, however, that the SMPD policy described herein is more restrictive than state and federal law, and employees are required to comply with this policy. A description of all possible situations wherein the use of force, whether less-lethal or deadly force, would be justified is not feasible.

1.3.1 DEFINITIONS

- A. **ACCIDENTAL DISCHARGE:** Any unexpected or unintentional expulsion of a projectile from any firearm or the unexpected or unintentional discharge of a dart or probe from an electronic control device that does not strike or injure a person.
- B. **CHEMICAL AGENT:** Chemical agents composed of irritants which in low concentrations act primarily on the eyes and respiratory system. Chemicals such as Ortho-chlorobenzylmalononitrile (CS) Gas or Oleoresin Capsicum (OC).
- C. **CHOKE HOLD:** The intentional and prolonged application of force to the throat, windpipe, or airway of another person that prevents the intake of air. The term does not include any hold involving contact with another person's neck that is not intended to prevent the intake of air.
- D. **CONTAINMENT:** Creating and enforcing boundaries that limit a subject(s) movement to a specific area without placing officers or the public at unreasonable or unnecessary risk.

- E. **CONTACT SHOOTING:** A shooting in which an officer shoots any person, including himself/herself, intentionally or accidentally, on duty or off duty, or when an officer is shot by any person; or when a person is struck by a projectile, or a secondary projectile, such as glass, wood, concrete, etc.
- F. **CRISIS:** Any situation in which a subject perceives a sudden loss of ability to use effective problem-solving and coping skills. Individuals in crisis may have underlying mental health issues, or there may be other potential causes including, but not limited to, the effects of alcohol or drugs, or temporary emotional disturbances based on situational factors such as the death of a loved one, divorce, loss of job, natural disasters, criminal victimization, suicidal or homicidal thoughts, or underlying medical conditions.
- G. **DEADLY FORCE:** Force that is likely to cause death or serious physical injury.
- H. **DART-FIRING STUN GUN/ ELECTRONIC CONTROL DEVICE (ECD):** A less lethal weapon that uses a powerful electrical signal to temporarily override the central nervous system and directly control skeletal muscles. This causes an uncontrollable contraction of the muscle tissue, allowing the dart-firing stun gun to physically debilitate a subject regardless of pain tolerance or mental focus.
- I. **DE-ESCALATION TECHNIQUE:** Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. These techniques allow officers more time, distance, and space to introduce new tactics such as: establishing containment areas, seeking cover, controlling the scene, engaging the subject in conversation, and calling for backup officers and additional resources (i.e., crisis managers, family members, clergy, etc.)
- J. **DUTY TO INTERVENE:** Upon a member witnessing the application of unnecessary and/or excessive force, or the application of force when it is no longer required, the member will immediately attempt to prevent or stop the use of excessive force by another member when it is objectively reasonable to do so. The member will immediately notify their supervisor of the incident
- K. **IMMINENT DANGER:** A situation that an officer perceives, by use of any of the officer's senses, to present a menacing, perilous, threat of death or serious bodily injury. The perceived time of occurrence that the officer feels is so brief that he must act to protect himself or another from the threat.
- L. **INVOLVED OFFICER:** An involved officer could include, but is not limited to, any officer who was directly involved in a critical incident, such as by discharging their firearm, operating a vehicle that was involved in a vehicle crash resulting in serious bodily injury or death, or using force resulting in serious bodily injury or death.

- M. **LAST RESORT:** All practical means available to the officer to avoid using deadly force have been exhausted. These should include only those which would not substantially increase the risk of danger to the officer.
- N. **LESS-LETHAL FORCE:** A type or quantity of force, which is neither likely nor intended, to cause death or serious physical injury. Such force normally includes but is not limited to, the use of physical strength or skill, chemical agents, the defensive police baton, CEWs, or any other departmentally approved less-lethal tool or technique.
- O. **NON-CONTACT SHOOTING:** An intentional shooting in which an SMPD officer discharges a firearm (except during training, practice, or personal recreational activities) and no person is struck by the projectile. Animal shootings are considered non-contact shootings for the purposes of this policy.
- P. **OBJECTIVELY REASONABLE:** The determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situation.
- Q. **PROBABLE CAUSE:** That set of facts or circumstances based on personal knowledge, observation, or reliable information that shows and would warrant an ordinarily prudent person to believe that a particular person has, is threatening, or about to commit an unlawful act, and would cause a person of average caution to act in a similar manner under similar circumstances.
- R. **PROPORTIONALITY:** Using only the level of force necessary that reasonably corresponds to the threat present to safely achieve lawful objectives. Officers should consider the nature and severity of the underlying event and individual(s) involved and consider whether other reasonable options exist to safely control the situation.
- S. **PUBLIC SAFETY STATEMENT:** A brief statement after a critical incident that is intended to establish the level of danger that may still exist, aid the initial operational response to locate suspects, and focus the initial stage of the investigation, to include the preservation of evidence.
- T. **RESPONSE TO RESISTANCE:** Officer's response to a person's resistance to the officer's efforts to accomplish lawful objectives, including, but not limited to defense of self or others, capture, control, restraint, or compliance.
- U. **SERIOUS PHYSICAL INJURY/ GREAT BODILY HARM:** Includes, but is not limited to, an injury that creates a substantial risk of death or serious physical disfigurement, disability, or protracted loss or impairment of the functioning of any organ or part of the body.

- V. **SPECIALTY IMPACT MUNITION:** refers to a group of firearm-delivered projectiles (i.e.: rubber bullets, beanbags, etc.) that have a low probability of causing serious bodily injury or death when they strike human targets.

- W. **TACTICAL FLEXIBILITY:** Techniques used to create more reaction time, more physical distance from threats, and more maneuvering space so that officers can assess and mitigate volatile situations more safely. If employed with successful results, these techniques allow officers to resolve situations with the least amount of force necessary. Reducing or eliminating situations will improve scene safety and reduce injuries.

- X. **THREAT:** An expression of intention to inflict pain, injury, or damage, or other hostile action or reckless behavior.

- Y. **VASCULAR NECK RESTRAINT (VNR):** A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.

- Z. **WARNING SHOT:** Discharge of a firearm to gain compliance from an individual or a group of people, but not intended to cause physical injury.

1.3.2 RESPONSE TO RESISTANCE

Following applicable laws, officers will use only the force necessary and that is objectively reasonable to accomplish a lawful objective and such force will cease when they accomplish this objective. The force may be as simple as taking control of the person by physically restraining his or her arm or may escalate to the use of other compliance techniques or devices for control, including the last resort, deadly force. Officers are not expected to engage in prolonged hand-to-hand combat before resorting to a higher level of force, if necessary, to control the situation.

[CFA4.01M]

- A. **De-escalation:** Officers shall use de-escalation techniques and other alternatives to higher levels of force consistent with training whenever possible and appropriate before resorting to force and reducing the need for force. Note: *Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a subject, or commission of the crime, an officer shall allow an individual reasonable time and opportunity to submit to verbal commands before force is used.* [CFA 4.01M(B)]

- B. **Duty to Intervene:** Officers are required to maintain control or intervene if the use of force against a subject clearly becomes unnecessary. Any member who observes any act of excessive use of force is required to immediately intervene. All acts of excessive use of force will be immediately reported to the shift supervisor. **EXCESSIVE FORCE WILL NOT BE TOLERATED.** [CFA 4.01M(D)]

C. **Response to Resistance:** There are occasions during police action, which demand that a law enforcement officer use non-negotiable coercive force to execute legal authority. The level of force applied by the officer must be proportionate to the level of resistance offered. Members shall demonstrate a good faith effort in administering the amount of force necessary to meet that specific resistance level.

1. Any application of force may result in injury or complaint that unnecessary or excessive force was used. The amount of force administered by the member shall not shock the conscience of the community. If the person is injured, the extent of the injury shall be proportionate to the exhibited resistance level. Courts have held that for a response to resistance to be justified you must show:
 - a. Need for the application of force.
 - b. Relationship between the need and the amount of force used.
 - c. The extent of injury in relationship with the seriousness of the action the action.
 - d. That force was applied in good faith and not maliciously or sadistically.
2. Control may be achieved through advice, warning, persuasion, or physical control. While response to resistance may be necessary, all reasonable alternatives should be exhausted or determined inappropriate under the circumstances. Officers may use force when they reasonably believe it necessary to defend themselves or others from bodily harm.
3. Several factors must be evaluated by the officer in determining the appropriate response to a person's resistance. For example:

An unarmed, small-framed, female juvenile may be displaying a high level of resistance but may only require a low-level response. On the other hand, a lone officer faced with a professional wrestler or football player may find that his/her response to mild resistance from the person must be escalated to a relatively higher level. Officers are reminded they may only use the force necessary to affect an arrest.

4. Additional considerations when making a response to resistance decisions:
 - a. **SUBJECT FACTORS:**
 1. Seriousness of the crime committed by the person.
 2. Size, age, behavior, or demeanor of the subject.
 3. A person's apparent physical ability.
 4. Number of people involved or who may become involved.
 5. Weapons possessed, available, or believed to be possessed by the person.
 6. Known history of violence by the individual.
 7. Whether the person can be recaptured later and whether physical evidence is likely to be destroyed.

b. **OFFICER FACTORS:**

1. Size, physical ability, and defensive tactics expertise of the officer.
2. Number of officers present/available.
3. Defensive tools or restraint devices available.
4. Legal standards and departmental policy.

c. **SITUATIONAL FACTORS:**

1. Physical or structural surroundings.
2. Presence of other people.
3. Proximity of subject to officer and others.
4. Non-criminal nature of the incident (Baker Act, Marchman Act, or mentally handicapped individual.)

5. Each incident that requires the response to resistance by an officer shall be reviewed individually to confirm justification. Actions that were justified in one instance may not be justified in another.

D. **THE CONTROL OF PERSONS:** Situations arise involving the use of deadly and non-deadly force for the control of persons in the course of a police officer's official duties.

Circumstances may dictate that officers may be required to escalate from one level of force to a higher level without using any of the intervening levels of force available to the officer. Officers are also required to de-escalate any time the resistance ceases or drops in intensity. The officer's response should be based on the person's actions, the officer's perception of threat, and the officer's knowledge of his/her abilities.

1. **SUBJECT RESISTANCE (subject's resistance levels to lawful authority):**

- a. **Passive** – The subject verbally or physically refuses to comply with an officer's lawful command causing the officer to use physical contact to establish control.
- b. **Active** – The subject uses physically evasive movements toward the officer such as bracing, tensing, pushing, and/or pulling to prevent the officer from taking control.
- c. **Aggressive** – The subject makes attacking movements toward an officer that may cause injury but are not likely to cause death or great bodily harm to the officer or others.
- d. **Aggravated** – The subject makes hostile attacking movements with or without a weapon that create a reasonable perception by the officer that the subject intends to cause, and has the capability of causing, death or great bodily harm

to the officer or others.

2. OFFICER RESPONSE OPTIONS (officer's response options to resistance):

- a. **Presence and Verbal (Non-Deadly)** – The officer is present on the scene. A two-way controlled, non-emotional communication between the officer and the subject, aimed at problem identification and resolution.
- b. **Physical Control (Non-Deadly Force)** – Achieving compliance or custody through the use of empty hand control such as pain compliance, takedowns, striking, and restraint devices.
- c. **Less-Lethal Weapons** – A weapon that is not fundamentally designed to cause death or great bodily harm, such as an ECD expandable baton, flashlights, chemical sprays, bean bags, pepper balls, and/or the use of K-9.
- d. **Deadly Force** – An application of force, with or without a weapon that is likely to cause death or great bodily harm.

1.3.3 RESPONSE TO RESISTANCE/ USE OF DEADLY FORCE

- A. The use of deadly force is the most serious action in which a police officer may engage. The authority to carry and use firearms in the course of public service is an enormous responsibility. An officer may use deadly force in response to resistance only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in imminent danger of serious physical injury.
 1. Deadly force is to be used only as a last resort. The police officer should consider alternatives to the use of deadly force whenever possible, without unnecessarily endangering their life or the lives of others.
 2. Only in those instances when an officer has probable cause to believe a person has committed a violent felony and poses a threat of great bodily harm to the officer or another, or if allowed to escape would pose the same threat, should deadly force be utilized. The decision to use deadly force must be made on facts known, or perceived, by the officer at the time the decision was made.
- B. Before using a firearm, police officers will identify themselves and provide a verbal warning on their intent to shoot, when feasible. **[CFA 4.01M]**

- C. When the decision is made to use deadly force, officers must cease its application when the threat no longer exists and there is a reasonable belief that they or another person are no longer in imminent danger of death or serious physical injury.
- D. Officers shall not use their firearms if circumstances do not provide a high probability of striking their intended target or if the firing of a firearm would place innocent persons at risk.
- E. Officers shall not fire their firearm at a moving vehicle with the sole purpose of disabling the vehicle.
- F. Shooting at and/or from a moving vehicle is a dangerous and ineffective practice and is generally prohibited. Officers should initiate evasive action when threatened with deadly force. However, there may be unique situations in which evasive actions are impossible and officers have no other alternative but to use their firearm.
- G. Deadly force against a suspect in a moving vehicle should only be used as a last resort to prevent the escape of a dangerous felon who would pose an immediate threat of death or great bodily harm and then only with due regard for the safety of others.

1.3.4 PUBLIC SAFETY STATEMENT

A. Public safety statement will be used during a critical incident by a directly involved officer. Examples would be discharging their firearm, operating a motor vehicle that was involved in a vehicle crash resulting in serious bodily injury or death, or using force resulting in serious bodily injury or death.

B. A public safety statement may only be obtained when employee witnesses are unavailable or insufficient to ensure public safety or preservation of evidence.

C. The first arriving supervisor not involved in the incident shall seek a public safety statement from the involved officer. The supervisor should acknowledge that immediately after a critical incident, an involved employee may experience a period of mental confusion or disorientation. Consequently, supervisors should first attempt to obtain information related to public safety or preservation of evidence from employee witnesses. This is not an interview and will only address only the most basic information regarding the incident.

1. The public safety statement could include but is not limited to, the following questions:

- a. Are you injured?
- b. If you know of anyone who was injured, what is their location?
- c. From what location did you fire your weapon?

- d. In what direction did you fire your weapon?
 - e. Are any suspects at large? What are their descriptions?
 - f. What was their direction and method of travel?
 - g. How long did they flee?
 - h. For what crimes are they wanted?
 - i. With what weapons are they armed?
 - j. Does any evidence need to be preserved? Where is it located?
 - k. Are there any witnesses to the incident? Where are they located?
- D. Depending on the information available and facts of a specific incident, additional questions may be asked. However, only questions pertaining to public safety and crime scene preservation will be permitted.
- E. Any questioning will not be recorded in any form.
- F. Due to the immediate need to take action, the agency will require officers to these public safety questions without waiting for legal or union representation.
- G. This is not a formal interview; however, both on-scene supervisors and officers should understand the importance and limitations of the public safety questions.
- H. A public safety statement will not be requested by responding investigative staff.
- I. Once the inquiries are answered, the officer should be cautioned not to discuss the incident further, except with legal counsel, before giving a formal statement.
- J. The supervisor shall relay this information to the appropriate personnel and take any necessary actions to protect public safety.
- K. Any questions posed beyond the scope of a Public Safety Statement, i.e., questions intended for ensuring public safety and preservation of evidence, will not be used against the questioned employee in any criminal or administrative investigation.

1.3.5 ANIMAL SHOOTINGS/ USE OF FORCE

- A. A police officer may use deadly force against a vicious animal as a last resort if the animal is posing an immediate threat of death or great bodily harm to the officer and/or members of the community. Any lethal or less-lethal force used against an animal shall be documented in an Offense/Incident Report and Response to Resistance Report. The shift supervisor shall also complete and submit a Staff Notification Report.

1.3.6 PROHIBITED ACTIONS

- A. Warning Shots present a danger to police officers and citizens alike. **WARNING SHOTS ARE PROHIBITED. [CFA 4.04M]**
- B. Officers will not discharge their weapon(s) unless there is a high probability of striking the intended target. Firearms shall not be discharged if the member has reason to believe that the discharge may endanger the lives of bystanders or other innocent parties.
- C. Officers are prohibited from using deadly force in the defense of property.
- D. Officers employing approved impact weapons will not intentionally strike the head or groin area of a subject.
- E. The use of the **Vascular Neck Restraint** and/or **Choke Hold** is **PROHIBITED** (except when deadly force is justified). **[CFA 4.01M(A) and 4.10M]**
- F. Civilian (non-sworn) employees are prohibited from carrying or possessing a firearm or weapon, concealed or unconcealed, while on duty or while on City premises.
- G. Officers are prohibited from “horse-playing” and/or using/ handling their approved weapons in a careless, reckless, or unsafe manner.
- H. Firearms or other less lethal weapons will not be carried while under the influence of alcoholic beverages.
- I. An officer involved as a defendant or plaintiff in a domestic violence case is **PROHIBITED** from having a firearm in or near their possession when near the other party in the case. This includes carrying a firearm or any other deadly weapon in court when they are parties to a domestic case.

1.3.7 RESPONSE TO RESISTANCE REPORTING

In documenting an officer's use of force to exert their legal authority, a Response to Resistance Report will be completed by the investigating supervisor on duty. If the supervisor is involved the lieutenant will investigate, if a lieutenant is involved the captain will investigate. This force may be with lethal or less-lethal weapons. This report will be subject to review through the requisite chain of command including the Departmental Trainer. After final review and approval, a copy of the report will be maintained in the Professional Compliance Division. **[CFA 4.07M]**

- A. **Requisites for Reporting:** The occurrence of one or more of the following situations requires the preparation of a Response to Resistance Report regardless of whether an arrest is made. It is the responsibility of the officer to ensure that a supervisor is notified when one of the listed situations occurs to see that a Response to Resistance Report is generated. **This report will be completed by the end of the shift in which the incident occurred.** **Except for officer-involved shootings and other deadly force incidents.**
1. Whenever a firearm is discharged in a contact or non-contact shooting, except for training, practice, personal recreation activities, and/or non-use of force accidental discharges; **[CFA 4.07M(A)]**
 2. Whenever an ECD is discharged during a response to resistance or at a subject, except for training or accidental discharges; **[CFA 4.07M(B)]**
 3. Whenever an impact weapon is used as a striking instrument on a person; **[CFA 4.07M(B)]**
 4. Whenever a degree of force is applied or a struggle occurs which results in, or is alleged to have resulted in, injury or death of another; **[CFA 4.07M(B, C)]**
 5. Whenever there is an injury or a complaint of injury is expressed which results from any striking of a person who offers resistance; **[CFA 4.07M(C)]**
 6. Whenever there is an injury or a complaint of injury resulting from a Police K-9 apprehension. **[CFA 4.07M(C)]**
 7. Whenever any less-lethal weapon/ chemical agent is discharged in the direction of or causes injury to a person (i.e.: beanbags, pepper balls, C.S. Gas).
- B. When an officer is the only injured party during an arrest and the criteria listed above do not apply, the Response to Resistance" Report is not required.
- C. The "Response to Resistance Report" is **not** required when: the person was injured before the arrest and/or Baker Act; complains of an aggravation of a pre-existing injury resulting from the mere guiding, holding, or handcuffing; the person is accidentally injured after

arrest and/or Baker Act by tripping, falling, etc.; or the subject intentionally injures himself. *Note: An Offense Incident Report must be made to document the person's injuries even if his injuries were not caused by any actions by the officers.*

- D. **Notification of Supervisor:** The officer(s) involved shall immediately notify the dispatcher and request his/her supervisor respond to the scene(s). The supervisor shall respond to the scene(s) where the response to resistance occurred. In cases where the response to resistance occurs outside of the City of South Miami's jurisdiction, the shift patrol lieutenant or Staff Duty Officer will be notified.
- E. **Response to Resistance Report:** The Response to Resistance Report requires a complete and thorough investigation by the responding supervisor. The following shall be included in the official Response to Resistance Report:
1. Color photos will be taken of all subjects and officers who were directly involved in the incident described in the Response to Resistance Report. Color photos will also be taken of all injured parties involved in the incident (except when the incident is a contact shooting, photos will be taken by FDLE). The photos will be taken by the responding supervisor.
 - a. Overall, mid-range and close-up photos should depict all injuries sustained, and appropriate areas of the body when there is a complaint of injury.
 - b. Whenever possible, photos shall be taken before transporting the subject(s) to any outside facility.
 2. A copy of the Offense/Incident Report will be attached to the Response to Resistance Report.
 3. The Offense/Incident Report will include all details related to the incident (i.e., a detailed listing of injuries to the person and the officer and the cause of the injuries; medical treatment rendered; previous injuries not caused by the response to resistance; circumstances surrounding the response to resistance by the officer; identity of all officers involved and witnesses to the incident; and photographs of any visible or claimed injuries).
 4. If an officer is seriously injured, the reporting process will be completed by the immediate supervisor, or his designee, for administrative use until the concerned officer can complete his/her first-hand narrative.
 5. Any other document related to the incident (i.e.: Arrest Affidavit, Property/Evidence Form, Crash Report, etc.).
 6. The supervisor shall complete the "**Supervisor Response to Resistance Guide**" to "**The Response to Resistance Report.**" See the addendum at the end of the G.O.

7. The supervisor shall place evidence markers on incidents recorded on body-worn cameras.
 - a. Marker set for the beginning of the Response to Resistance.
 - b. Marker set during the Response to Resistance.
 - c. Marker set for de-escalation.

F. **Response to Resistance Narratives:** When a Response to Resistance Report is completed the narrative section of the report shall be completed. The following shall be included:

1. Details of the circumstances of the incident and the force required to execute legal authority shall be included.
 - a. Example: *"I advised the subject that he was under arrest for battery, and I grasped his left arm with my left hand. The subject broke free from my grasp and using his right arm with a clenched fist, swung a roundhouse punch attempting to strike my facial area. I ducked the roundhouse punch and using the end of my police baton, struck the subject twice in the abdomen. The subject fell to the ground and was subsequently handcuffed with no further resistance. No injuries were sustained, and medical attention was not required for the subject or me."*
 - b. Narratives which describe the response to resistance in the following manner will not be acceptable for departmental standards: *"During arrest a physical altercation ensued at which time minimal force was used to subdue the person."*
2. The Supervisor's Narrative will include (1) time notified; (2) arrival time; (3) what the supervisor observed; (4) witnesses interviewed; and (5) whether all statements are consistent. Supervisors shall ensure that the narratives comply with these established standards. If any area of the report is not complete, then the supervisor must note why.
3. Officer(s) advising the supervisor of the response to resistance is responsible for providing a detailed account of the situation, including:
 - a. Description of the Incident- What happened leading up to the resistance.
 - b. Level of Resistance- Level of resistance encountered.
 - c. Actions Taken- Actions that were taken in response to resistance, including techniques or tools used to gain control of the situation.
 - d. Outcome- The outcome of the interaction should be clearly stated,

including any injuries sustained by either party or damage to property.

e. Justification for Response- officer(s) should justify their response explaining why actions taken were necessary and proportional to the level of resistance encountered.

f. Follow-Up Actions- Such as medical attention for injuries.

4. The officer(s) will review the information provided to the supervisor and shall sign the acknowledgment section of the Response to Resistance Form.

5. The supervisor will not enter an opinion or conclusion when completing the narrative section of the form.

6. If the incident is a contact or non-contact shooting, the supervisor completing the Response to Resistance Report shall write in the narrative section: "SEE CASE REPORT PREPARED BY INTERNAL AFFAIRS/ FDLE."

G. Reviewing Reports of Response to Resistance: The Response to Resistance Report will be completed by the end of the shift in which the incident occurred. This report will be forwarded for review and approval through the chain of command to the Chief of Police.

1. At each step of the review through the chain of command, supervisors will review the incident and all applicable paperwork, deciding whether the response to resistance was in policy or out of policy and following applicable state laws.

1.3.8 DISCHARGE OF FIREARMS, DEADLY FORCE, AND IN-CUSTODY DEATH INVESTIGATIONS

A. All contact shootings, deadly force, and in-custody deaths shall be investigated by the Florida Department of Law Enforcement (FDLE). The independent investigative report shall be submitted to the state attorney of the judicial circuit in which the use of force occurred. **[CFA 15.21M]**

B. The officer(s) involved shall immediately notify the on-duty supervisor. The on-duty supervisor shall notify the shift patrol lieutenant or the Staff Duty Officer after hours.

C. The supervisor advised of such incident will immediately respond to the scene(s), evaluate the incident, and request assistance as warranted.

D. Additional police units will be requested and respond to render assistance, secure the scene, initiate an investigation, and prepare the Offense/Incident Report.

- E. Once the initial scene is secure, an inner perimeter shall be established for concerned investigators, command staff, and other support staff. An exterior perimeter shall be established for media, members of the public, etc. A command post shall be established.
- F. An Incident Commander will be recognized.
- G. All witnesses shall be secured and separated to ensure statement integrity. Contacts should be kept to a minimum.
- H. Involved firearms or weapons shall only be collected and impounded by the Florida Department of Law Enforcement (FDLE).
- I. The involved officer's firearm should be re-holstered or left where it was dropped. Rifles should remain exactly where they were left by the involved officer(s).
- J. The Florida Department of Law Enforcement (FDLE) and South Miami Police Department Internal Affairs Units will be contacted to respond and investigate.
- K. The FDLE will be the primary (lead) investigator on all shooting and in-custody deaths and will arrange Crime Scene Services.
- L. The Incident Commander shall arrange to supply the officer(s) who discharged the firearm with a replacement firearm. Officers (involved in the shooting) equipped with Body-worn Cameras (BWC) that captured the incident will stop recording by powering down the device after the event.
- M. In an incident outside the City of South Miami, the on-duty supervisor shall contact the shift patrol lieutenant or Staff Duty Officer (after hours). The command officer will determine what, if any, support personnel should respond to the incident.
 - 1. Professional Compliance will be notified and respond to the scene of the incident.
 - 2. A command-level officer will arrange to supply the officer(s) who discharged the firearm with a replacement firearm.

1.3.9 ACCIDENTAL DISCHARGE OF A WEAPON

- A. When an officer has an accidental discharge, on or off-duty, the officer shall notify the on-duty supervisor via police radio of the occurrence (or via phone if off-duty).
- B. The on-duty supervisor shall notify the shift patrol lieutenant or the Staff Duty Officer, after hours.
- C. The on-duty supervisor will secure the scene.

- D. The on-duty patrol lieutenant or Staff Duty Officer will respond to the scene and contact an Internal Affairs Investigator to respond.
- E. An Internal Affairs Investigator will respond to the scene(s) and investigate. If unavailable, the Administrative Captain shall appoint an investigator.
- F. An Accidental Discharge Report will be completed by the investigator and submitted via the chain of command to the chief of police within 72 hours. The Accidental Discharge Report shall include the following:
 - 1. Accidental Discharge Report
 - 2. Color photos of the scene, injuries, and/or damage (overall, mid-range, and close-up)
 - 3. Offense/Incident Report
 - 4. Injury report if any
 - 5. Weapon inspection form; and
 - 6. Copy of Property Receipt (impounded spent casing, ECD cartridge, etc.).
 - 7. The Accidental Discharge Report will be forwarded to the Chief of Police via the chain of command of the affected officer(s).

1.3.10 MEDICAL AID

- A. When deadly or less-lethal force is used and the subject either exhibits injury or makes a complaint of injury, the officer will render first aid and request appropriate medical assistance. The officer will then notify his or her supervisor. **[CFA 4.08M]**
- B. If an officer uses deadly or less lethal force against a person while affecting an arrest, he/she will do the following:
 - 1. Request rescue at the scene if injuries are serious enough to warrant immediate attention (for example: severe bleeding, unconsciousness, or other severe trauma), and immediately start appropriate first aid; and/or
 - 2. Have rescue transport the prisoner expeditiously (before completing reports or other duties) to the nearest medical facility.
 - 3. When a member encounters any person with an injury wherein the circumstances of the encounter and the type of injuries are such that the injured party may claim that they were the result of contact with the member, said member shall include this information in the narrative section of the report filed with this incident.
 - 4. When an ECD is used on a suspect, the officer(s) will adhere to the procedures

outlined in this chapter (less-lethal weapon 1.3.14

1.3.11 ADMINISTRATIVE PROCEDURES

A. **Legal Representation:** An officer involved in the use of deadly force can be subjected to several areas of criminal and civil jeopardy in addition to being vulnerable to potential department discipline. Hence, the Department will cooperate with an officer who requests representation by an attorney after being involved in an incident in which deadly force was used. This cooperation shall include but not necessarily be limited to:

1. Representation and consultation before questioning or interviewing regarding the incident.
2. Recognition of attorney-client privileged communications.
3. Use of a departmental communications system to contact the officer's choice for representation.
4. It shall be the involved officer's responsibility to request representation after becoming involved in an incident in which he/she utilized deadly force. Once the officer has invoked this procedure, all persons involved in the investigation of the incident shall refrain from questioning the officer until the representative arrives either on scene or at headquarters providing this can be accomplished within a reasonable amount of time, not to exceed three (3) hours. The officer shall request representation from the ranking supervisor on the scene who will then have the representative contacted via communications. Should an officer be incapacitated to the point where they cannot decide to invoke this procedure, no questioning shall take place. Although this procedure provides for legal representation for the officer involved, nothing herein shall be construed as to make the South Miami Police Department or the City of South Miami directly or indirectly responsible for monetary costs because of the officer invoking this procedure. These costs may include but are not limited to:
 - a. Attorney's fees.
 - b. Overtime payment or awarding of compensatory time to a City employee representative used at the officer's request.

B. **Representative (Client Privilege):** A representative who is not an attorney and/ or psychotherapist does not enjoy the attorney or psychotherapist/ client privilege and could be compelled to provide a statement.

- C. **Administrative Assignment:** Any officer directly involved in a deadly force incident shall be placed on "Administrative Leave" directly upon completion of the preliminary report of the incident. This leave shall be without loss of pay or benefits, pending the results of the investigation. The assignment to administrative leave shall not be interpreted to imply or indicate that the officer has acted improperly.
1. While on administrative leave, the officer shall always remain available for official departmental interviews and statements regarding the incident and shall be subject to recall to duty at any time.
 2. Upon returning to duty, the officer may be assigned to duties other than their primary assignment for some time as deemed appropriate by the Chief of Police.
 3. In all cases where a person has been seriously injured or killed because of a firearm discharge by a police officer, the involved officer will be required to undergo an emotional debriefing with the departmental furnished psychologist within five days of the incident. The debriefing shall not be related to any department investigation of the incident, and nothing discussed in the debriefing will be reported to the City or Police Department. The debriefing session will remain protected by the privileged Professional Psychologist Code of Ethics.
 4. The involved officer and family will have available to them the services of the department psychologist, chaplain, or peer counselor. The purpose is to provide the officer and/or family with a source of professional consultation to aid them in dealing with the potential moral and ethical after-effects of a shooting incident. The services shall not be related to any department investigation of the incident, and nothing discussed will be divulged to the City or Police Department.
 5. Additionally, supervisors will remove any officer and/or departmental employee from their line/duty assignment involved in a critical or traumatic incident causing death or serious physical injury, such as a fatal motor vehicle crash involving the employee. Supervisors will follow the above administrative procedures (1-3).
 6. A written memorandum will be submitted by the on-duty supervisor by the end of the shift. There will be a documented review initiated by a Lieutenant appointed by the Chief of Police or his designee whenever any member's action results in death or serious bodily injury. **The member will be removed from the line of duty for at least 72 hours until a preliminary documented administrative review through the chain of command is conducted on the facts of the case and to allow the officer time to recover from the incident. This standard applies to sworn and civilians, for both accidental and deliberate acts.**

1.3.12 FIREARM DISCHARGE REVIEW BOARD

The board's purpose is to ensure employee compliance with policies and procedures regarding firearm discharge. The board thoroughly reviews all incidents of firearms discharge except for firearm re-certification or training practice at the range. The board considers the judgment used by the employee, and the incident's nature, and determines if other alternatives existed. It is not the board's intent to investigate any criminal violation resulting from the discharge of a firearm.

- A. When a firearm is discharged, a board shall be established consisting of three (3) sworn members selected as follows:
 - 1. A member selected by the affected employee
 - 2. A member selected by the Chief of Police
 - 3. The division commander of the affected employee
- B. None of the board members shall serve if they have been a witness to the firearm discharge or involved in the investigation of the incident.
- C. The board shall meet within thirty days of the incident, provided the review board does not interfere with any other ongoing investigations being conducted by the State Attorney's Office, the Grand Jury, Internal Affairs, the Miami-Dade Police Department, FDLE, etc.
- D. The board shall review the circumstances of the shooting incident and determine if a violation of departmental policy, rules, or regulations occurred and recommend the appropriate corrective action (according to the established disciplinary matrix).
- E. All board members will be provided with all pertinent information concerning the incident by the Internal Affairs Investigator before the meeting of the board.
- F. All persons with knowledge of the incident, witnesses, and/or relevant subject matter experts will appear before the board for recorded statements.
- G. The time and location of the board meeting will be determined by the board members.
- H. The chairperson will be the commander of the division to which the affected employee is assigned or if the same is involved in the investigation, another supervisor selected by the Chief of Police. The chairperson's duties will consist of:
 - 1. Distributing pertinent information to the board members.
 - 2. Notifying all people involved of the time, date, and location of the meeting.
 - 3. Provide the Chief and the officer involved with a copy of the final determination of the board.

- I. All incidents involving deadly force where an officer or citizen is injured or killed will be investigated by FDLE and the SMPD Internal Affairs unit.
- J. When a criminal investigation of the deadly force incident is under investigation by an outside agency such as FDLE or the State Attorney's Office, the administrative investigation and board hearing and any related deadlines shall be postponed until the criminal investigation is concluded and a written report on the conclusions of this investigation is forwarded to and received by the Chief of Police.

1.3.13 AUTHORIZED FIREARMS/ AMMUNITIONS

While On duty, sworn personnel shall only carry and use approved weapons and ammunition that meet departmental specifications. Sworn personnel are authorized to carry approved weapons and ammunition off-duty (firearms used for licensed hunting, organized competitive shooting, and recreational target practice activities are excluded). When off duty, sworn personnel may carry other weapons. All personally owned firearms (secondary/off-duty/ shotguns/rifles) must be inspected and approved in writing by the department armorer and Chief of Police before being carried/ used.

- A. **Training and Qualification Prior to Carrying/ Using:** Personnel will not carry firearms or less lethal weapons on duty until they have qualified on the required course. As part of their training, they will be issued copies of and instructed in the agency's Response to Resistance Policy before they are authorized to carry a weapon. Personnel is required to complete the Florida Basic Recruit Training Program, or its equivalent, before assignment in any capacity in which a sworn member is allowed to carry a firearm or is in any position to make an arrest. If an officer is returning from extended leave, or recovering from an illness or injury that could affect their firearms ability, that officer will re-qualify before carrying a firearm or other issued weapons. **[CFA4.02M] [CFA4.03M]**
- B. **Inspection Prior to Carrying/ Using:** Firearms intended for use, on or off duty, will be inspected and approved (before being carried) by the Department Armorer who will verify that the employee is qualified to carry the firearm **[CFA4.05M(e)]**
- C. **Inventory Control:** The issuance of department-owned firearms will be documented in the Quartermaster Module of the Record Management System Software. Upon being issued a firearm, the employee will sign his/her initials next to the appropriate information (i.e. make, serial number, etc.) on a document acknowledging receipt of the weapon. The Quartermaster will maintain the employee equipment/property records. The Firearms Trainer will also be responsible for keeping an inventory of all department-owned and issued weapons. This inventory shall be logged by weapon type, serial number, make, and to whom it was issued. **[CFA 4.05M(g)]** The Firearms Instructor will

keep a record of all non-department-issued firearms that have been approved for use and will ensure that the officers complete the required qualification. The Firearms Trainer is responsible for keeping all such records up to date. [CFA 4.05M(g)]

- D. **Storage of Weapons:** Firearms will not be left unsecured. Departmental personnel (both on-duty and off-duty) shall take the necessary steps to ensure that their firearms are always secured and not readily accessible to others. All firearms, including shotguns and rifles, not being personally carried or which are otherwise unattended, shall be secured as indicated below.
1. **Structure:** When left in any structure, firearms, and weapons will be secured in a safe location (i.e.: locked cabinet, locker, safe, drawer, or secure component).
 2. **Vehicle:** Weapons may be secured in vehicles temporarily when a secure location inside a structure is not available or is impractical. Weapons secured in a vehicle shall be locked in the trunk or an interior locked compartment/ weapon mount rack if the vehicle has no trunk. Storage in an unattended vehicle for an extended period, overnight or longer, is prohibited.
 3. **Departmental Storage:** Except for firearms stored in the detention area handgun locker or individual employee locker, firearms stored in the department will be unloaded and secured in the department's armory (excluding those impounded as property or evidence).
- E. **Holsters:** Uniform personnel shall only use holsters approved (minimum level 2 safety) by the department while on duty. Firearms shall always remain holstered except when necessary for use in the line of duty, practice, inspection, or to conform to other rules and/ or policies. Handguns approved for non-uniformed assignment shall be carried openly in a holster approved by SMPD only when displaying SMPD sworn employee credentials (i.e., police badge).
- F. **Drawing of Weapons:** At no time will an officer display his/her weapons in public in a reckless or carefree manner. The decision to draw or direct a firearm at an individual should be based on the tactical situation and reasonable belief by the officer that there is a substantial and imminent risk that the situation may escalate to a point where deadly force may be justified. Officers should exercise cautious discretion when drawing a firearm.
- G. **Surrendering a Firearm:** All efforts should be made to avoid surrendering your firearm to subjects.
- H. **Inspections of Firearms:** Line supervisors will ensure that firearms inspections are conducted of all approved duty firearms monthly; these inspections shall be recorded on the Monthly Inspection Form. Any firearm found to be in non-working order or otherwise

unsafe will be unloaded, the officer will be issued a replacement, and the firearm will be brought to the attention of the Departmental armorer for evaluation and repair. [CFA 4.05M(f)]

- I. **Care of Firearms:** Personnel are responsible for proper care, cleaning, and treatment of firearms carried in the line of duty.
- J. **Unsafe Firearms:** Employees are prohibited from carrying any firearm that the armorer deems unsafe. Also, the repair, modification, or adjustment by an employee other than the Firearms Instructor and/or Armorer, of an issued firearm and/or shotgun, is prohibited. The Armorer will replace any department-issued firearm that is unsafe with a properly functioning weapon before the employee returns to duty.
- K. **Current List of Authorized Weapons and Ammunition:** SMPD maintains a current list of departmentally approved firearms, holsters, weapons, and ammunition.
- L. **Handling Firearms:** Firearms will be handled safely and reasonably.
 - 1. **Prohibition on direct contact:** A handgun, rifle, or shotgun muzzle will not be held in direct contact with an individual except as a last resort when the use of deadly force is justified, and it is the only manner in which the firearm can be discharged without increasing the risk of death or serious physical injury to the officer or another person.
 - 2. **Handguns:**
 - a. When a handgun is drawn, the trigger finger will be kept outside the trigger guard and parallel to the cylinder or frame unless deadly force becomes necessary.
 - b. Handguns will be secured as soon as practicable after determining that the use of deadly force is not necessary.
 - 3. **Less-Lethal Shotguns:**
 - a. The trigger finger shall be kept outside the trigger guard unless becomes necessary to discharge impact munition.
 - b. The safety button shall be engaged or disengaged only from outside of the trigger guard.
 - c. While deployed, less-lethal shotguns will be carried loaded, without a round in the chamber and the safety on.
 - d. Officers carrying less-lethal shotguns are discouraged from running or engaging in foot pursuits unless exigent circumstances exist.

- e. Less-lethal shotguns will be loaded and unloaded safely and location with the barrel pointing in a safe direction.
- f. Routine loading and unloading will be into and from the magazine tube.
- g. Less-lethal shotguns will be transported in vehicles with an empty chamber, in battery (slide locked forward), and the safety on.
- h. A chambered round will be removed directly from the chamber.
- i. Less-lethal shotguns will be secured as soon as practicable.

M. Authorized Handguns:

1. On-Duty/ Primary Handguns:

- a. Glock Semi-automatic .40 Caliber; Models 22, 23, 27, and 35 (depending on their areas of assignment).
- b. All officers will carry the departmental-issued handgun as their primary handgun while in uniform or plain clothes unless otherwise authorized. Authorized special-issued weapons may be carried by officers in an undercover capacity as needed. **[CFA 4.05M(a)]**

2. Off-Duty/ Secondary Handguns:

- a. Officers are authorized to carry a secondary handgun while on duty provided, they have followed the procedures specified within this General Order. Firearms authorized and issued for primary; on-duty use are also authorized for off-duty use. The off duty/ secondary handgun must be between .32 and .45 caliber (inclusive) and be approved by a Firearms Instructor and Chief of Police. **[CFA 4.05M (b)]**
 - 1. When off-duty, all officers will keep a handgun available when operating a department vehicle, whether in uniform or civilian clothing or as a passenger in a department vehicle.
 - 2. Members shall request written permission in a memorandum from the departmental firearms instructor via the Chief of Police to carry a second and/or off-duty handgun
 - 3. Once the specific second handgun has been approved, it is the only handgun authorized as a secondary handgun. In the event an officer chooses to carry a different second handgun, the officer is required to

follow #2 above.

4. Members shall qualify with the approved firearm, with the departmental firearms instructor, prior to carrying.
5. Each officer carrying a secondary handgun must ensure that the handgun is properly secured and carried concealed on his person in an approved holster.
6. All members authorized to carry off-duty handguns shall carry their badge and Departmental Identification Card while carrying a firearm.
7. The secondary handgun is to be carried (when on duty) with the understanding that the handgun is to be used only in cases of the primary firearm being taken or attempted to be taken by a suspect. The loss of the primary firearm, malfunction of the primary firearm or complete expenditures of carried ammunition for the primary firearm.
8. The carrying of a firearm **OFF-DUTY** by full-time sworn police officers not under suspension is **OPTIONAL** and is at the discretion of that officer except when operating a departmental vehicle.
9. Officers within the City of South Miami shall be armed and carry their credentials and/or badge while **OFF-DUTY**.
10. Officers under suspension **SHALL NOT** carry any firearms normally used during their police function unless said firearm is personally owned.
11. Officers must qualify with the secondary/off-duty handgun in the same predetermined manner as with the department-issued firearm. The cost of ammunition required for qualifying with the secondary/off-duty handgun is to be borne by the member unless the ammunition required is of .40 caliber. The cost for repair of privately owned firearms shall also be the responsibility of the officer.

N. **Authorized Rifles:** Departmental rifles are provided to deliver additional safety to officers and the community during situations that involve a heightened probability of violence. Supervisors will take all appropriate measures to ensure that rifles are available and being carried by certified officers while on duty. Certified officers will carry departmentally issued or personally owned rifles when the following criteria are met:

1. Successful completion of the approved 24-hour rifle training course.

2. Departmentally approved semiautomatic rifles capable of firing 5.56/.223-caliber ammunition is the only long gun approved for use by South Miami Police Department officers.
 3. The rifle will be carried with the chamber closed, bolt forward, and empty, the magazine filled, and the safety on.
 4. SWAT members engaged in training or tactical operations may utilize any SWAT-approved rifle.
 5. Once the above is met, all personnel certified to carry a rifle are required to carry their rifle, whether departmentally issued or personally owned, in their vehicle when working on-duty or in a regular extra-duty status, in uniform.
 6. Personnel equipped with a rifle, whether departmentally issued or personally owned, will be responsible for ensuring proper maintenance and operation of the rifle.
- O. **Authorized Ammunition:** Only ammunition approved by the department Firearms Instructor and the Chief of Police will be carried in approved firearms.
1. The Department will issue ammunition for primary duty firearms, rifles, and shotguns. Only issued rounds are authorized for Glock handguns and AR-15 rifles **[CFA 4.05M(d)]**
 2. Explosive or combustible rounds, Magnum or armor-piercing rounds including rounds designed to penetrate armor plate, soft body armor, and bullet-resistant glass, plastic, or fibers, and rounds containing multiple pellets or projectiles are **PROHIBITED**.
 3. Uniformed officers will carry sufficient ammunition to supply two complete reloads for the approved primary firearm.
 4. Non-uniformed officers shall carry sufficient ammunition to supply a complete reload for the approved primary firearm. Depending upon the nature of the assignment, the requirement may be waived by the respective division commander.
 5. Officers needing replacement duty ammunition should contact the department's Firearms Training Unit.
- P. **Accessories / Modifications:**
1. Holsters/ Accessories:
 - a. **Uniform Provisions:** Uniformed personnel can wear the issued holster or any of the other approved holsters as Approved by the Chief of Police. Personnel must demonstrate proficiency with any non-issued uniform holster prior to utilizing it

on or off duty.

- b. **On-Duty Non-uniformed Personnel:** On-duty non-uniformed personnel shall carry handguns in holsters equipped with safety strap or securing mechanisms. Firearms carried in a purse must be holstered with a safety strap or flap secured and in a separate compartment away from personal effects.
 - c. **Other Holster Types:** Personnel utilizing an ankle or other special holster on duty will be required to demonstrate firing proficiency using that holster as normally worn, during departmental proficiency firing.
 - d. **Magazine Pouches:** Personnel may carry either horizontal or vertical magazine pouches. Vertical pouches worn with the flap side down are prohibited.
 - e. **Trigger Shoes:** Trigger shoes are prohibited.
 - f. **Lighting and/or Laser Sighting Devices:** Only lighting and/or laser sighting devices approved by the department Firearms Trainer/ Armorer and Chief of Police may be affixed to firearms.
2. **Modifications:** Departmental firearms shall not be altered. Repairs and installation of approved grips or sights on handguns, shotguns, and rifles, will be done by the Department Armorer.

1.3.14 AUTHORIZED SPECIAL-PURPOSE TACTICAL WEAPONS

- A. The Department will supply SWAT officers with special-purpose tactical firearms as necessary. Only departmental weapons shall be used.

1.3.15 AUTHORIZED LESS-LETHAL WEAPONS

- A. **Authority:** Sworn personnel authorized to carry and/or use less-lethal weapons and techniques are issued a copy of the departmental response to resistance policy as described in this general order. Proficiency will be documented during annual qualification training, which will signify receipt of instruction. The following less-lethal weapons and procedures are authorized for use by departmental personnel:
 - 1. When deadly force is not justified, officers will assess the incident to determine which less-lethal technique or weapon will best de-escalate the incident and bring it under control in a safe manner.

2. Officers will use only that force necessary to control or arrest the individual. Officers are authorized to use departmentally approved weapons including the ASP Baton,
 3. Only departmental personnel who have proven proficiency with agency-approved less-lethal weapons are approved to carry them on or off duty. The carrying of those weapons and their use must be done in a manner consistent with that of training, and policies, and per state and federal law. The department will maintain a current list of each type of approved less-lethal weapon and only those weapons will be allowed to be carried by departmental personnel. **[CFA 4.06M (a, b, d, e)]**
- B. **Expandable Police Batons:** Expandable batons will be carried only by personnel who have completed departmentally approved training and have demonstrated proficiency annually in their use.
- C. **Chemical Agent:** Ortho- chlorobenzylmalononitrile (CS) is **not authorized** for use by South Miami Police Officers assigned to Uniform Patrol.
- D. **ECD Electronic Control Device** is authorized for use by trained police officers and is the TASER 7 and applicable 25-foot cartridges.
- E. **Specialty Impact Munition:** departmentally approved training and used in situations dealing with aggressive subjects when a less lethal response is needed.
1. **Response to Resistance Applicability:** An ECD is classified as less lethal force technology and equipment. These devices are not likely to result in death or serious physical injury.
 - a. The ECD utilized by the South Miami Police Department has a records storage function where it stores the time and date when it is fired. This data provides complete and accurate documentation on each firing. These records provide invaluable information in the event of an allegation of the misuse of the device.
 - b. The ECD is deployed as an additional law enforcement tool, and it is not intended to replace firearms or self-defense techniques.
 - c. The ECD is not intended to be used as a tool of coercion or to intimidate an individual into compliance with simple requests or directions from an officer.
 - d. ECDs are issued to officers who have completed the approved ECD User Certification course.
 - e. The subject's mere failure to comply with verbal commands shall not in itself serve as a justification for ECD deployment. Officers should only use that force which is

necessary to control and seize an individual to take the person into custody or treatment, where the individual escalates resistance to the officer, from passive physical resistance to active physical resistance, and/or the individual has the apparent ability to endanger the officer. ECD deployments are also authorized in situations where the subject is suffering a mental health crisis or is in the process of committing self-inflicted injuries. No policy or guidelines can anticipate every situation that officers might face, however, in general terms, the following guidelines are established:

1. The decision for an officer to deploy an ECD will ultimately rest on the officer's judgment and application of departmental policies. A suspect's actions, including verbal statements and body language, should be considered before the deployment of an ECD
2. **The device may be used at distances up to 25 feet when:**
 - a. The suspect is punching, kicking, physically resisting, obstructing, or opposing an officer.
 - b. The suspect is threatening to punch, kick, or physically harm a police officer.
 - c. Physically evasive movements to defeat an officer's attempt at control in the form of bracing or tensing the body, attempts to kick, push, or pull away from the officer, or prohibiting the officer from getting within proximity of the subject, including fleeing.
 - d. Blading the body in a fighting stance.
 - e. Lesser force options are ineffective.
 - f. The officer reasonably believes that the suspect poses a credible threat to himself/herself or others.
 - g. The suspect poses a threat from a distance and the officer is at risk of injury if he/she attempts to close the gap.
3. **Other considerations on the deployment of the ECD include:**
 - a. Imminent threat of the suspect to the officer or others.
 - b. Suspect actively resisting arrest/custody.
 - c. Severity of the crime at issue.
 - d. Attempt by the suspect to evade apprehension by flight.
4. **Officer/suspect factors that may be considered:**
 - a. Age.
 - b. Gender.
 - c. **Pregnancy (avoid use on late-term women as the dart-firing stun gun could cause complications from a secondary injury fall and contractions).**

- d. Young children (avoid use).
- e. Skill levels.
- f. Numbers of suspects and numbers of officers.
- g. Relative strength of officers and suspects.

5. Special Considerations:

- a. Proximity or possession of a weapon by the suspect.
- b. Injury or exhaustion of an officer.
- c. Officer on the ground.
- d. Special knowledge relative to the suspect.
- e. Availability of other options.

2. Dart-Firing Stun Gun/ECD General Procedures:

- a. Officers must successfully complete eight (8) hours of ECD certification training before being authorized to use the device.
- b. Officers must successfully complete a four (4) hour transition course to upgrade to a newer ECD.
- c. One (1) refresher-ECD dart-firing stun gun-training will be provided on an annual basis for all certified members. **[CFA10.10M(c)]**
- d. Detailed records of training will be maintained, including the hours of training, lesson plans, and related documentation.
- e. When ECD's are issued to officers, the serial numbers of the devices and the cartridges will be logged and tracked. The ECD will be inspected before being issued. Only properly functioning and charged ECD's will be carried in the field.
- f. All sworn personnel trained and issued an ECD are required to wear an ECD and have in their possession ECD accessories when working on duty or in an extra-duty status in uniform. The Chief of Police reserves the right to exclude specific officers from the mandatory carrying of an ECD.
- g. Personnel equipped with an ECD will be responsible for ensuring proper operation. ECD's will be checked daily by conducting a function test before the start of the officer's shift. The function test is done to verify the ECD's core electronics are working properly. Function Test Procedures: <https://help.axon.com/hc/en-us/articles/360011020654-Performing-a-Function-Test>

- h. The ECD shall remain in the off position (safety switch turned to the off position) unless the member is engaged in an authorized Response to Resistance situation. Members are authorized to turn on their ECD during training or in a classroom presentation/ demonstration approved by the Chief of Police.
- i. Supervisors will conduct monthly inspections to verify that the ECD data has been uploaded and that ECD's are used per policies. ECD cartridge expiration dates will be recorded
- j. The agency conducts an annual inspection of less-lethal weapons to ensure expiration dates are not exceeded; this requirement is fulfilled during the inspections of officer equipment by their supervisor. **[CFA 4.06M(e)]**
- k. No officer will be permitted to carry any cartridges which have not been authorized by the police department.
- l. Each discharge of an ECD will be investigated and documented utilizing a Response to Resistance Report or Accidental Discharges Report.
- m. The activation of the ECD will automatically activate all AXON body-worn cameras (BWC) in the vicinity of the active ECD.
- n. The ECD should be activated for one standard cycle of (5 seconds). Utilizing ECD repetitive cycles should not exceed an accumulative total of three (5 second) cycles or deployments, unless tactically necessary to seize an individual based on factors confronting the officer at the time of the incident such as:
 - 1. The subject continues to actively resist or exhibit physically evasive movements to defeat the officer's attempt to control.
 - 2. The subject refuses to follow the officer's command to stop actively resisting.
 - 3. A tactical method is not feasible or could place the officer and/or subject in jeopardy.
 - 4. Notwithstanding the above, the attempt by the subject to defeat the ECD deployment connection is sufficient justification for repetitive cycle deployments.
- o. Any extension of a single 5-second exposure shall be justified and documented appropriately.
- p. The probes should not be touched during this time as anyone encountering the probes will also receive the same "electrical current." Officers should avoid stepping on or tripping over the wires.

- q. The ECD is laser sighted. The device should never be aimed at the eyes, face, chest and/or groin area of a suspect (see manufacturer's training manual).
- r. Officers should always keep their hands away from the front of the unit unless the device's switch is off and the ECD is deactivated.
- s. Officers will always replace cartridges by their expiration date. Outdated cartridges will be used for training only.
- t. ECD's can also be utilized to neutralize an attack by an animal. In the event an animal is struck with an ECD, the Miami-Dade Animal Services Department will be contacted.
- u. All responses to force using the ECD will be documented on a Response to Resistance Report and reviewed by the officer's immediate supervisors, through the chain of command up to the Chief of Police.

3. ECD Discharge Procedures:

- a. When practicable, aim at the lower torso area of the front of a person or the center of mass from the rear of the person. Watch for thick and/or loose clothing. If probes hit clothing, the electrical current can penetrate for a maximum of 2 ¼ inches away from the skin.
 - 1. Use cover and distance to ensure optimum officer safety.
 - 2. Use the ECD to avert violent confrontations.
 - 3. If the target runs, the officer(s) must also run to prevent the wires from breaking.
 - 4. Avoid use on slanted rooftops or ledges of tall buildings, or tall fences.
 - 5. Remember that the successful deployment of the ECD, when more than one officer is present, requires clear and concise communication between the officers.
- b. Prior to the use of the ECD, if practical, advise "**TASER, TASER!**" indicating the use of it is imminent.
- c. After deployment, an officer shall announce the code word "**CLEAR**" to alert other officers before approaching the subject to affect an arrest.
- d. When a secondary officer is on the scene, the officers shall take a tactical

advantage and utilize the window of opportunity given while the individual is experiencing neuro-muscular incapacitation to control and handcuff the subject.

- e. Supervisors shall respond, investigate, and complete a Response to Resistance Report.
 - f. Officers will document the use of the ECD in the Offense/Incident Report and/or Arrest Affidavit.
 - g. The officer shall treat the expended probes and used safety gloves as biohazard material. The probe(s) shall be inserted point first back into the ports of the air cartridge. The cartridge ports will then be sealed with tape and placed in a biohazard bag per procedures in the Communicable Diseases Property and Evidence Policy.
 - h. Investigative entities that determine expended ECD cartridge(s) or probe(s) are of evidentiary value shall follow procedures outlined in the Property and Evidence Policy to gain custody of such cartridges.
4. **ECD Aftercare/Medical Aid Procedures:**
- a. Once the subject is handcuffed and in custody, ECD user-certified officers will remove the probes from the subject using departmentally issued safety gloves. If needed, a Band-Aid will be applied to the affected area. An ECD user-certified female officer should be utilized to remove probes that strike a female whenever practicable. Any adult prisoner impacted by the ECD probes shall be transported to a detention facility via the nearest medical facility, when determined to be necessary.
 - b. In the event an ECD probe strikes a subject's head, neck, female breast or genital area, officers should not attempt to remove it, but have MDFR respond to remove it. After being treated by MDFR personnel, the subject will be transported to the nearest medical facility.
 - c. Any juvenile impacted by an ECD shall be transported to a medical facility for evaluation. Upon written release from the medical facility, the juvenile prisoners shall be transported to the Juvenile Services Department. MDFR shall be called to the scene to evaluate the juvenile.
 - d. **Personnel will notify MDFR under the following circumstances:**
 - 1. When a probe is embedded in the head, neck, female breast, or genital area.
 - 2. When the person is unconscious even for a short period of time.

3. When the person is in an **“excited delirium”** state; displaying wildly agitated behavior, possibly hallucinating, or appears to be under the influence of a stimulant drug, especially urgent if the skin feels hot.
4. There is significant injury from a fall or take down.
5. The person volunteers/states that they are having chest pain or trouble breathing.
6. The person exhibits persistent confusion or altered mental status more than one minute after application of the ECD.
7. If an ECD is used by a member of the public on an individual, i.e., non-police use.
8. If the individual requests MDFR or medical assistance.
9. If used on a juvenile (17 years of age or under).
10. If there is any doubt as to the health of the person. (For example, the person complains of chest pains, has difficulty breathing, or it appears the person may be having an epileptic or other type of seizure.)

e. **Medical Considerations:**

1. Continuous monitoring of the person must take place regardless of whether MDFR is called or not, especially within the first 60 minutes after an ECD application.
2. Care must be taken to avoid positional asphyxia. No person should be restrained and left prone (face down) for an extended period.

5. **Equipment and Duty Gear:**

- a. All ECD-certified officers will wear a department-issued holster when carrying the ECD on duty.
- b. **All ECD-certified patrol officers will wear the issued device in the issued holster on their duty belt on the side opposite of their issued firearm (cross-draw style).**
- c. Detectives or officers on special assignments may wear the ECD in a tactical vest holster, shoulder holster, or on their belts.

6. ECD Prohibitions:

- a. An ECD shall not be deployed on subject(s) in physical control of any motor vehicle including ATV's, motorcycles, and scooters, while the vehicle is in motion.
- b. Officers shall not discharge an ECD near flammable liquids or fumes. An ECD shall not be discharged if self-defense spray has been deployed as the ECD can ignite when discharged near flammable liquids or fumes.
- c. **An ECD shall not be used on women who are known to be pregnant and/or women who appear to be pregnant (unless deadly force is authorized).**
- d. An ECD shall not be intentionally aimed at the head, chest, neck, female breast, or genital area.

7. Storage and Maintenance:

- a. When a dart-firing stun gun is not in use and is to be stored at the South Miami Police Department, the following procedures must be followed:
 - 1. The ECD will be in a holster or secured storage box.
 - 2. The device will be placed inside of the designated storage cabinet and secured.
 - 3. The ECD will be logged into Evidence.com inventory control module.
 - 4. When an officer needs a replacement ECD, they will notify the on-duty supervisor. The on-duty supervisor will request a spare ECD from the Department Trainer. The ECD's information will be recorded accordingly in the Evidence.com management system.
- b. When an ECD is to be secured and taken home by an officer as a permanently issued piece of equipment, the following procedures must be followed:
 - 1. All officers will check the batteries and check the expiration of the cartridges.
 - 2. The battery must be kept in the data port and periodically cleaned by wiping away any dirt and dust from the firing bay.
 - 3. The ECD must be kept in the holster when not in use and properly secured at home when the officer is off duty.
 - 4. No changes, alterations, modifications, or substitutions will be made to the

ECD. Only an authorized vendor will complete all repairs to the device and/or applicable equipment.

- F. **Specialty Impact Munition:** Officers who have been trained and demonstrated proficiency with an agency-approved Specialty Impact Munitions will be issued and/or authorized to carry and use it to defend themselves or others in the performance of their duties, or to accomplish other lawful objectives.
1. The use of Specialty Impact Munitions on designated areas of the body at a distance of twenty (20) feet or more is considered a "Less-Lethal" force alternative. Less-lethal munitions may be used when **active physical resistance** or deadly force is encountered.
 2. Discharging a Specialty Impact Munitions at a person's head, neck, or throat area or at a person's torso (excluding the arms) above the waist, less than twenty (20) feet away, is considered deadly force application.
 3. The tool is designed to be used in a variety of situations ranging from crowd control to hostage/victim rescues. It may be applied at various levels of force and each usage should be determined to be reasonable for the threat level presented and knowledge of the situation at the time before its use.
 4. There will be designated shotguns for the deployment of less-lethal munitions and shall be distinctly marked with an orange fore-end and stock so that shotguns are not confused with a standard-issued shotgun. An exception is made for special SWAT applications.
 5. Every effort will be made by Officers deploying specialty impact munitions to inform other police personnel in the immediate vicinity that less-lethal munition rounds will be deployed, to prevent sympathetic firing by other officers. They will use the term **"Impact"** before deployment.
 6. **Strike Zones:** Officers shall make every attempt to strike in the primary target area consisting of large muscle groups (i.e. buttocks, thigh, and calf.) or in the secondary target area consisting of skeletal and medium muscle groups (i.e. muscle areas-shoulder, upper arm, abdominal area; skeletal areas – wrist, elbow, and knee).
 7. **Deadly Force Strike Zones:** Final resort target area where maximum effectiveness is desired to meet a level of threat escalating to deadly force (i.e. chest, groin, spine, lower back, head, and neck.)
 8. **Medical Aid:** Anytime force is used and the subject either exhibit injury or makes a complaint of injury, the officer will render first aid and request appropriate medical assistance. The officer will then notify his or her supervisor.

9. **Reports:** The appropriate report shall be completed whenever a weapon is employed (Response to Resistance/ Accidental Discharge Report/ Memorandum).
10. **Training:** All personnel issued and/or designated to use Specialty Impact Munitions shall demonstrate proficiency prior to issue and carrying and/or use on duty, and annually thereafter during in-service training. **[CFA 4.06M(C)]**
 - a. Less-lethal munitions training will be taught by an instructor who has received specialized training in the less-lethal munitions and delivery systems that have been approved for use by the Chief of Police. Prior to carrying, each officer must have proven proficiency in use.
 - b. Departmental training in less-lethal Specialty Impact Munitions will occur biennially (once every two years).
11. **Inspections:** Specialty Impact Munitions will be inspected bi-annually by the Department's Armorer. Any expiration dates shall be noted in the Inspection Report by the inspector. **[CFA 4.06M(E)]**

1.3.15 TRAINING AND PROFICIENCY

- E. Annually, each officer receives in-service training on the department's Use of Force Response to-Resistance Policy and shall prove proficiency with their issued and authorized firearms. **[CFA 10.10M(B)]**
 5. Annually, officers shall demonstrate proficiency with firearms authorized to carry. **[CFA 10.10M(A)]**
 6. Officers will qualify with firearms authorized to carry per CJSTC Rule. **[CFA 10.10M(E)]**
 7. There will be annual refresher courses on the use of ECD per Florida Statute. **[CFA 10.10M(C)]**
 8. Re-certification for use of less-lethal weapons, such as the ASP baton will be biennial (once every two years). **[CFA 10.10M(D)]**
 9. Officers will adhere to all range, firearm, and less-lethal weapons safety and training guidelines (refer to safety and training guideline manuals).
- F. At re-certification training the instructor will review the departmental Response to Resistance policy, the most current legal updates, and applicable state statutes. In addition:

1. The firearms proficiency training will reflect those tactical circumstances and conditions that police officers are likely to confront in real-life situations.
 2. Each officer will be given two opportunities to achieve a minimum qualifying score with their issued firearms on an approved range facility, following Florida State Criminal Justice Training Standards. (CJSTC Standards).
 3. It will be the responsibility of the lethal and less-lethal weapons instructors to coordinate with the Training Unit and establish dates and times so that all officers may qualify with on-duty, off-duty, and specialty weapons.
 4. The Firearms Instructor shall be in complete control of the range and has the authority to dismiss any member for non-compliance of range rules.
 5. If an officer fails to attend mandatory firearms qualifications, the Firearms Instructor will notify the Chief of Police through the chain of command. Unless excused for valid reasons, the officer will be subject to disciplinary action.
- G. Failure to Qualify/Remedial Training: If an officer fails to qualify with his/her issued primary, on-duty firearm, he/she will not be authorized to carry that firearm until the course is passed. An officer not qualified with a primary duty firearm may be reassigned or may be subject to disciplinary action, as designated by the Chief of Police.
1. Remedial training will be provided to any officer unable to qualify with an issued firearm. The training will be held at a time separate from regular qualification periods to facilitate the identification of skills needing improvement. Satisfactory completion of remedial training requires that the officer pass the course and qualify with a "pass."
 2. If the officer was relieved of certified police officer duties solely for failure to qualify with a firearm, he or she may be reinstated to regular duties after qualification.
 3. **A maximum of three remedial training sessions** will be scheduled for the officer who fails to qualify with his or her primary, on-duty firearm. The first remedial training session will be scheduled as soon as possible after the session in which the officer failed to qualify. If needed, the second and third sessions will be scheduled at least one week apart. Additional remedial training will be at the officer's own time and expense. If the officer still fails to achieve a qualifying score after the third remedial session, he or she is subject to job reclassification, disciplinary action, OR termination.
- H. Only officers who have proven proficiency in the use of agency-authorized weapons (lethal and less-lethal) are permitted to carry such weapons on or off- duty. **[CFA 4.05M(C)] [CFA 4.06(C)].**

- I. Before being authorized to carry or use a firearm or any other weapon approved by the department, the officer will be instructed in the Departmental Response to Resistance Policy, and any other directive that pertains to response to resistance and/or weapons.
- J. The certified instructor: i.e., firearms, baton, or defensive tactics, will only train personnel in those weapons approved by the Chief of Police. Each officer will achieve a qualifying score on the prescribed course and demonstrate safe-handling procedures for firearms and weapons.
- K. All officers must attain and prove knowledge of the laws concerning the response-to resistance, escalating force, and deadly force.

1.3.16 ANNUAL ADMINISTRATIVE REVIEW AND ANALYSIS

- A. The agency conducts an annual administrative review and analysis of those reports filed as a result of discharge of weapons, use of less lethal devices, or a weaponless response to resistance, [CFA 4.09M(A,B,C)]
- B. The agency conducts an administrative review and analysis of less-lethal weapons as part of a review process for selecting all types of less-lethal weapons authorized for use. This review is submitted to the Chief of Police by his designee.
- C. The agency will transmit Response to Resistance Use of Force Data to the FDLE and FBI (UOF programs) through the CJIS Portal annually. The following information will be transmitted when:
 - 1. **Death:** a fatality occurs in connection with a Response to Resistance by a law enforcement officer.
 - 2. **Serious Injury:** serious bodily injury occurs in connection a Response to Resistance by a law enforcement officer; or
 - 3. **Discharge of Firearm- A firearm is discharged by a law enforcement officer at or in the direction of a subject.D. This will be completed within 3 business days of the incident occurrence when applicable but at the very least on a monthly basis by the Communications Manager. If no incidents have occurred in the month, a ZERO Report will be entered.**

1.3.17 CURRENT LIST OF AUTHORIZED WEAPONS

LIST OF AUTHORIZED WEAPONS				
WEAPON TYPE	DESCRIPTION	MODEL(S)	CALIBER/ GAUGE/ SIZE/ LENGTH	CLASSIFICATION
Firearm	Handgun	Glock 22, 23, 27, & 35	.40 Caliber	Lethal
Firearm	Rifle	Colt, S&W, Bushmaster, or Similar	.223/5.56 Caliber	Lethal
Electronic Control Device	Dart-Firing Stun Gun TASER	X7	25 Feet Air Cartridge	Less Lethal
Impact Weapon	Expandable Baton	ASP	16" and 21"	Less Lethal
Firearm	Less-Lethal Shotgun	Remington 870 or Similar	12 Gauge	Less Lethal
Impact Munition	Rubber Projective	TBD	12 Gauge	Less Lethal
Impact Munition	Bean Bag Round	ALS	12 Gauge	Less Lethal



Supervisor Response to Resistance Guide

This reference guide is intended for supervisors responding to Use of Force incidents to ensure a comprehensive investigation of a Response to Resistance is completed and documented. Response to Resistance investigations should be conducted impartially and not come to predetermined conclusions. This reference guide is not intended to replace a Response to Resistance submission and should be retained as a supervisor's field notes. **Once completed it shall be attached to the Response to Resistance report during the supervisor's review.**

The supervisor's responsibilities at the scene will include locating, interviewing, documenting, and collecting all relevant information to enable a full and proper analysis of the Response to Resistance incident.

Check the physical and mental well-being of the involved officers.	<input type="checkbox"/>
Determine if the officer's use of force was based on a lawful objective, such as arrest, search, frisk, community caretaker of the mentally ill, defense of an officer or a citizen, or to prevent escape.	<input type="checkbox"/>
Determine if the suspect presented an immediate threat to their own safety or the safety of others.	<input type="checkbox"/>
Determine if the involved citizen was actively resisting arrest or attempting to escape.	<input type="checkbox"/>
Determine if the response to resistance was proportional to the person's resistance.	<input type="checkbox"/>
Was there an urgent need to resolve the situation?	<input type="checkbox"/>
Could the officer have reasonably used lesser force to safely accomplish the lawful objective?	<input type="checkbox"/>
Was verbal persuasion used to attempt to resolve the situation without force?	<input type="checkbox"/>
Did the involved officers de-escalate the response to resistance?	<input type="checkbox"/>
Identify any Body Worn Cameras in use during the Response to Resistance incident.	<input type="checkbox"/>
Identify and interview any officer or citizen witnesses to the use of force	<input type="checkbox"/>
Determine if there are independent videos of the incident (i.e. Citizen phone video or security cameras)	<input type="checkbox"/>
Was the event captured on BWC	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was the officer injured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Workers Comp Form Completed	<input type="checkbox"/> Yes <input type="checkbox"/> No Offense/Incident Report #:
• Injury Report (RMS)	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Photographs of injury	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Miami Dade Fire Dept. Contacted	<input type="checkbox"/> Yes <input type="checkbox"/> No
Was the citizen injured?	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Was treatment provided?	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Injury noted in Offense/Incident Report	<input type="checkbox"/> Yes <input type="checkbox"/> No
• Photographs of injury	<input type="checkbox"/> Yes <input type="checkbox"/> No

DISTRIBUTION/ ROUTING

- | | | | |
|---|--|---|------------------------------|
| <input type="checkbox"/> Accreditation | <input checked="" type="checkbox"/> Chief's Office | <input type="checkbox"/> Communications | <input type="checkbox"/> CID |
| <input checked="" type="checkbox"/> Professional Compliance | <input type="checkbox"/> Support Services | <input type="checkbox"/> Training | <input type="checkbox"/> UPD |
| <input type="checkbox"/> Attachments | | | |

Memorandum | Continuation

Field notes of the supervisor's observations and investigation should include but not be limited to:

Brief summary of the incident and force used
Interviews conducted and synopsis
Sources for independent video
Statements made by the suspect
Injuries sustained by participants and medical treatment provided
Witness names and contact information

FIELD NOTES: