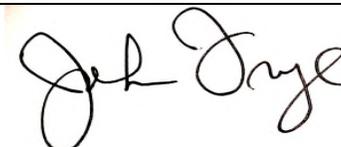




CHELtenham TOWNSHIP POLICE DEPARTMENT

Directive:	40	Title:	Response to Resistance
Effective Date:	08/09/11	Chapter:	1. Organization and Management
Revised:	06/15/20	Section:	3. Use of Force
Re-evaluation Date:	06/15/22	Issued By:	 John Frye, Chief of Police

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Distribution:	All Police Sworn
PLEAC References:	1.3.1, 1.3.4, 1.3.5, 1.3.6, 1.3.8, 1.3.9, 1.3.10
Revisions:	FINAL

I. PURPOSE

This Directive provides members with guidelines for the use of less lethal force in response to physical resistance and assaultive behavior. Additionally, the Directive details Department-authorized less lethal weapons, training in their use and reporting requirements when force is used.

Although this Directive is intended to regulate and guide CTPD personnel regarding the use of force, nothing in this Directive shall prevent a police officer from taking reasonable, immediate and necessary action to protect the lives and safety of innocent persons, fellow police officers and his/her personal safety.

II. POLICY

A. Primary Responsibilities: The primary duties of all police officers may be prioritized as follows (in descending order):

1. Preservation of Human Life: The preservation of human life may be subdivided into three categories (in order of highest to lowest priority):

- A.** Innocent Persons and Hostages.
- B.** First Responder and Emergency Personnel.
- C.** Criminal Actors.

2. **Maintenance of Public Order and Safety:** The police are tasked with maintaining order and safety within our community by enforcing criminal and traffic codes, ordinances and other regulations.
3. **Protection of Public and Private Property:** The police have a duty to protect public and private property and infrastructure . **Police personnel are reminded that the use of deadly force, purely in defense of property, is prohibited.**

- B. **Authorization:** To accomplish the above objectives, police officers are authorized to employ physical force, including both less-lethal and lethal weapons, to preserve life, effect a lawful arrest or for any other legitimate law enforcement purpose. This critical responsibility must often be carried out during dangerous, rapidly-evolving critical incidents. Police officers must be able to escalate and de-escalate the level of force necessary to resolve an incident; depending on the actions of the suspect and the totality of the circumstances. A professional police officer must be capable of a disciplined, reasonable response to resistance and must not be provoked into an unreasonable response, even if the actor's speech and actions are obnoxious and offensive. A police officer's actions must be **reasonable**, based on the circumstances as viewed by the officer on scene at that moment. (PLEAC 1.3.4)
- C. **Force Used must be Reasonable:** Cheltenham Township Police personnel shall only utilize reasonable force to affect lawful objectives in conformance to the provisions of the Pennsylvania Crimes Code, other Pennsylvania statutory provisions, and applicable Pennsylvania and Federal Court decisions. (PLEAC 1.3.1)
- D. **Use of Force must be Reported:** A Response to Resistance Report must be submitted through the Chain of Command and reviewed by the Chief of Police whenever any Department member (PLEAC 1.3.6 a, b and c):
 - Discharges a firearm, other than for routine training, recreational purposes, or animal disposal;
 - Takes any action that results in, or is alleged to have resulted in, any injury to another person; or
 - Uses physical force, or is alleged to have used physical force, upon another person.
- E. **Release Restricted:** This policy contains sensitive information related to police tactics, techniques and procedures related to the use of force by police officers and is exempt from release under the Right to Know Law. Release of this policy to non-law enforcement personnel without the express consent of the Chief of Police or his designate is prohibited.

III. DEFINITIONS

Control: The use (or threat of use) of physical actions to overcome, restrain or defeat the resistance or assault by a subject, with or without the use of weapons and/or other equipment.

Control Options: A training model/philosophy that supports the reasonable escalation and de-escalation of officer-applied control in response to the actions and levels of resistance offered by a subject. Control Options may progress from the officer's physical presence to the application of deadly force without the ability to utilize other intermediate options. Control Options are generally broken down into three levels: Low Level Options, Intermediate Options and Deadly Force.

Deadly Force (Lethal Force): Control Options or actions likely to cause death or serious bodily injury to the intended target.

Force (Physical Force): Any effort to restrain or overcome the resistance of another beyond normal handcuffing and Soft Empty Hand Techniques.

Intervene: To come between, whether verbally or physically, so as to prevent or alter a result or course of events

Less Lethal Force: Control Options designed to have a lower probability of causing death or serious bodily injury to the actor. Less Lethal Control Options include, but are not limited to: Empty hand techniques, impact weapons, chemical or impact munitions, police canines and TASERS.

Reasonable Belief: Perceptions and conclusions based on a police officer's past encounters, training, experience level, information received, sensory input and the specific circumstances of that incident; as viewed through the eyes of a reasonable police officer on the scene.

Resistance: Actions taken by a subject intended to impede, evade, overcome or defeat a police officer's attempts to arrest or otherwise control the actions of the subject.

IV. OFFENDER RESISTANCE AND POLICE CONTROL

- A. **Relevant Principles:** Police Use of Force is generally guided by three principles guided by U.S. Supreme Court and other relevant court decisions:

Use of Force will be Considered a "Seizure": In order for police to "seize" a person (police use of force is considered a "seizure" under the law); police must have reasonable suspicion that a crime has occurred, is occurring, or will occur and that the person seized may be involved.

Deadly Force Requires a Serious Threat: In order for the police to employ Deadly Force, the suspect must pose a significant threat of death or serious bodily injury to the public or to first responders.

Force Used must be Reasonable: Force applied to a subject must be **objectively reasonable**, as viewed by a reasonable police officer on the scene at that moment, and not with the benefit of "20/20 Hindsight".

- B. **Resistance and Control:** For the purposes of this policy, the use of force will be examined from two perspectives; **offender resistance** and **police control**. Resistance and Control can take both verbal and physical form.

V. OFFENDER RESISTANCE

- A. **Levels of Resistance:** A subject's resistance to police control will generally fall into one or more of the below listed levels, listed in order from least severe to most severe:

1. **Psychological Intimidation:** Nonverbal cues or body language indicating the actor's intent to flee, resist or assault police. Examples would include "blading" the body and assuming a fighting stance, clenching the hands into fists and the "thousand-yard stare".
2. **Passive Resistance:** Physical actions that do not prevent police efforts to control the subject. The subject is merely "dead weight" and does not cooperate with police efforts.
3. **Verbal Resistance:** Verbal responses from the actor indicating an unwillingness to cooperate or threats to assault police or others present.

4. **Defensive Resistance:** Physical actions that attempt to prevent police control, but do not harm the officer(s) attempting to control the actor.
5. **Active Aggression:** Direct physical actions of assault against police or others present.
6. **Deadly Force:** Direct assaults employing methods likely to cause death or serious bodily injury to police or others present. At this level, the officer faces overt, physical actions designed to incapacitate, kill, or gain access to the officer's weapons.

VI. POLICE CONTROL

A. Selecting a Reasonable Control Option: If a response to resistance becomes necessary, the level of control employed by the officer will depend on several factors: The officer's perception of resistance, the severity of that resistance, and whether that resistance is placing the officer or another in jeopardy of serious bodily injury or death. It is important to note that each officer's perception of the danger will be based upon his or her past training, skill level, and experience (PLEAC 1.3.4).

C. Levels of Police Control:

1. **Physical Police Presence**
2. **Verbal Commands and Directions**
3. **Empty Hand Control**
4. **Intermediate Weapons**
5. **Deadly Force**

VII. REGULATIONS

- A. The application of force must be reasonable:** Officers shall limit their use of force to situations in which it is reasonable to accomplish a lawful police purpose, or to prevent injury to innocent persons and police personnel.
- B. Officers shall not use force merely to establish their authority.**
- C. Duty to Intervene:** Officers have a legal and moral obligation to intervene if they observe another officer using force that is clearly excessive and/or unreasonable in a given circumstance. Situations involving the use of excessive and/or unreasonable force observed by members of this department shall be reported to a supervisor immediately.
- D. Personnel shall demonstrate satisfactory skill and proficiency** with all agency-authorized lethal and less lethal weapons before approval is granted to carry and/or use such weapons both on and off duty. (PLEAC 1.3.9)
- E. Less Lethal Control Options may be employed by qualified members** of the Department in situations where lower levels of control, such as empty hand techniques, have failed or would not be effective and the use of deadly force would not be appropriate (PLEAC 1.3.4).
- F. Verbal Commands:** Whenever practical, police verbal commands shall be issued prior to the application of a Control Option. Clear verbal commands shall accompany the use of control options in order to gain the desired behavior of the subject. Verbal warnings may be withheld for tactical reasons.

G. Neck Restraints/Choke Holds: Unless a true Deadly Force situation exists, choke holds are not authorized for use by this Department (PLEAC 1.3.10 f).

H. Medical evaluation must be provided: Any time force is employed and an injury to the actor is known, suspected or alleged, appropriate medical attention shall be given immediately (PLEAC 1.3.5).

- 1. EMS Evaluation:** The actor shall be evaluated by Emergency Medical Service (EMS) personnel. If EMS or a supervisor determines that additional treatment is necessary, the subject shall be transported to a medical facility for evaluation.

NOTE: The application of a TASER **requires** a transport to the ER for evaluation. Transport to the ER may be done by police vehicle, EMS transport is not required.

- 2. Refusal of Treatment:** Police have a court-established "special duty" to ensure the medical well-being of persons in police custody. However, prisoners retain the right to refuse medical treatment if they are of sound mind. If the actor refuses medical attention, it shall be documented in the officer's report and copies of the Refusal Form shall be retained for the case file. If the treating entity will not release the Refusal Form, it shall be documented in the Incident Report Form and Response to Resistance Form.

- a. Recovery of TASER probes:** TASER probes must be recovered for evidentiary and safety purposes. Prisoners do not have the right to refuse removal of TASER probes.

- b. Court Orders:** Some cases may require a court order to administer medically necessary procedures to a prisoner who refuses treatment.

- c. Consult a supervisor immediately** if the above circumstances should occur.

- 3. Photographic Documentation Required:** A police supervisor or detective shall photographically document all injuries, suspected or claimed, and forward same with the Response to Resistance report.

- 4. Document Injuries Thoroughly:** Document injuries sustained by arrestees in the appropriate sections of the Response to Resistance Report.

H. Handcuffs and Restraints: Police personnel shall only use handcuffs as temporary restraining devices intended to prevent the escape of detainees and for public safety purposes.

I. Cautions on Excited Delirium and Positional Asphyxia

Excited Delirium: Persons under the influence of a narcotic or suffering mental illness may exhibit the symptoms of **Excited Delirium**. These subjects may exhibit symptoms such as an elevated core body temperature (removal of clothing and profuse sweating), incoherence, aggression, high tolerance of pain and elevated strength. Subjects exhibiting these symptoms may require a large amount of personnel and elevated Control Options to secure the subject.

Once secured, the subject should be monitored by police and evaluated by medical personnel, as they present an elevated risk of cardiac arrest or seizure due to elevated heart rate and core temperature.

Positional Asphyxia: Certain body positions may inhibit the breathing of a subject who is in police custody. This risk is elevated for obese persons, intoxicated persons, autistic persons and subjects violently resisting police. For this reason, "Hog Tie" restraints where the person is placed on his/her stomach are **prohibited**. Additional "at risk" positions include lying flat and face-up or face-down for obese persons, violent resisters with multiple police personnel using body weight to control the individual, etc.

As soon as the subject is under control and secured; they should be placed in the "recovery position" (lying on the side or in a seated position) to reduce the possibility of chest compression and inhibited breathing.

VIII. DOCUMENTATION AND REVIEW

- A. Documentation:** Personnel who employ a Control Option exceeding the normal control and handcuffing necessary during a typical arrest shall prepare the following documentation:
- 1. Incident Report Form:** The reporting officer shall prepare a thorough report documenting the incident and select the **Response to Resistance** option in **section 7 (Status)** of the IRF report for tracking purposes.
 - 2. Response to Resistance Report (RTR):** Personnel employing a Control Option on another person or **aggressive** animal shall generate a complete and thorough Response to Resistance Report. All personnel employing a Control Option during the incident shall complete an individual RTR documenting his/her individual actions during the encounter. **Personnel may select the "See IRF narrative" on the RTR form and attach the IRF to the Response to Resistance report.**
 - 3. Additional Documentation:** Injuries sustained by suspects and police must be photographed by the supervisor or a Detective. Copies of same and any medical treatment documentation shall be forwarded to the appropriate supervisor or superior officer as part of the Response to Resistance review process.
 - a. Cleared for Incarceration:** When medical treatment of the prisoner is complete, a "Cleared for Incarceration" notation must be obtained from the treating medical professional or the detention facility will not accept the prisoner.
 - 4. Reports shall be promptly forwarded to the supervisor:** RTR reports shall be forwarded to the officer's immediate supervisor by the end of the officer's shift, unless exigent circumstances exist and approved by the supervisor. If the individual officer is unable to complete the RTR, the supervisor may complete an interim report or delegate the task to a subordinate. The incapacitated officer shall complete the RTR upon return to duty.
- B. Review of Police Actions:** A review of the Response to Resistance Report shall be conducted by the immediate supervisor of the officer(s) involved (PLEAC 1.3.6):
- 1. Incidents** involving an RTR require the supervisor's determination whether the officer's actions appeared to be "within policy" or "out of policy", with brief comments in the appropriate section of the RTR form. **A separate memo is no longer necessary.**
 - 2. Incidents** may require additional memoranda and documentation as directed by a superior officer. Examples of such documentation may include: Supplemental Reports, Digital Video Recorder (DVR) footage, phone and radio transmission recordings, witness statements, security camera video, etc..

3. **Division Commander:** The RTR shall be forwarded to the Division Commander, who shall review the case and enter his recommendations in the appropriate section of the RTR report and forward same to the Deputy Chief of Police.
 4. **Deputy Chief of Police:** The Deputy Chief shall review the incident and enter his recommendations in the appropriate section of the RTR and forward the report to the Chief of Police.
 5. **Chief of Police:** The Chief of Police shall review the incident and make the final determination as to whether the officer(s) actions were “within policy” or “out of policy”, including any additional recommended actions.
- C. **Review Objectives:** The objectives of the Response to Resistance review process are as follows:
1. **To protect the Civil Rights** of all persons.
 2. **To determine if the officer’s use of force was reasonable** based on the circumstances of the incident.
 3. **To ensure that police personnel are employing valid tactics**, techniques and procedures to maximize the safety of both the public and police.
 4. **To identify and remediate any deficiencies** in procedure, equipment or training.
- A. **Qualified Instructor:** Skill and qualification training for each authorized weapon shall be evaluated by a certified instructor. (PLEAC 1.3.10 c)
- B. **Documentation:** Training and qualification shall be documented for each authorized weapon. Units with training responsibilities shall keep current records of training, including lesson plans, test/qualification scores, personnel attending and date trained. The above information shall also be forwarded to the Professional Standards Division per **Directive 45: Mandatory and In-Service Training** (PLEAC 1.3.10 d).