

CHARLOTTESVILLE POLICE DEPARTMENT



Note: This directive is for internal use only and does not enlarge an officer’s liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Charlottesville Police Department and then only in a non-judicial administrative setting.

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RESPONSE TO RESISTANCE - GENERAL	Date: November 14, 2019
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Authorization: Chief R.M. Brackney <i>Rm Brackney</i>	Review Date: Annually

I. POLICY

The policy of this agency is to protect and preserve the rights of all citizens while balancing the need for officer safety during police and citizen encounters. Officers shall use only reasonable force to overcome the resistance of a suspect being lawfully detained. All responses to resistance by a law enforcement officer against free citizens must be objectively reasonable under the totality of circumstances.

II. PURPOSE

The purpose of this policy is to establish rules and regulations governing the response to resistance by officers of the City of Charlottesville Police Department.

III. DEFINITIONS

A. Response to Resistance Wheel: is an instructional aid wherein an officer is hypothetically placed in the center of “hub” or a “response to resistance wheel” and reacts to potential response to resistance issues using a reasonable amount of force to gain control over a subject. When the subject’s actions indicate a behavioral escalation or de-escalation, the officer’s new response to resistance option may either travel around the perimeter of the wheel, straight across the wheel or in any direction to meet the tense, uncertain and rapidly evolving situations that the officer may encounter.

Examples of the type of response options that are available to officers are:

1. Mere presence of the officer;
2. verbal communications;
3. Oleoresin-Capsicum (OC);
4. defensive tactics;
5. conducted energy weapon
6. firearms;

7. impact weapons; and
8. police canine.

B. Deadly Force: Any force that has the substantial likelihood of causing serious bodily harm or death.

C. Non-Deadly Force: All responses to resistance other than those that have the substantial likelihood of causing serious bodily harm or death.

D. Imminent: Impending or about to occur.

E. Objectively Reasonable Force: The amount of force that would be considered reasonable by other well-trained officers or experts in the field of law enforcement when faced with the circumstances that the officer using the force is presented with.

F. Reasonable Belief: Is a belief based on a set of facts and or circumstances that would cause a reasonable person to believe something is true.

G. Serious Bodily Harm: the term “serious bodily injury” means bodily injury which involves:

1. A substantial risk of death;
2. extreme physical pain;
3. protracted and obvious disfigurement; or
4. protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

H. Active Resistance: a subject actively resists when they take affirmative or defensive action to defeat an officer’s ability to take them into custody.

I. Passive Resistance: is the subject’s failure to comply with an order or directive given in an effort to gain some form of compliance by the suspect and does not involve any other affirmative physical actions.

J. Face Down: A body position where the chest is in contact with the ground, regardless of head position.

K. Positional Asphyxia: Death resulting from body positioning restricting the person’s ability to breathe.

L. Hogtie: A method of tying the limbs together, rendering the subject immobile and helpless.

M. Conducted Energy Weapon (CEW): Conducted Energy Weapons or stun guns (electronic control weapons) are weapons that disrupt the central nervous system of the body.

IV RESPONSE TO RESISTANCE GENERAL

A. Officers shall only use that force which is reasonable to protect life and affect lawful objectives.

B. Officers of the Charlottesville Police Department are authorized to use only the amount of force that they believe is reasonable to protect themselves and others from bodily harm. Officers are restricted from using deadly force against anyone, including a fleeing felon, except under the following conditions:

1. Protection of the officer's life from imminent threat of serious bodily harm or death;
2. protection of the life of another person from imminent threat of serious bodily harm or death; and
3. to prevent the escape of a person who has committed a violent felony when the officer has probable cause to believe that the person poses an imminent danger of death or serious physical injury to the officer or another person.

C. For the purpose of the Response to resistance directives, 'response to resistance' shall encompass both deadly and non-deadly force and will be implemented by the "response to resistance wheel."

V. RESPONSE TO RESISTANCE "WHEEL"

A. The "wheel" is based upon having a central hub with the officer being located in the middle of the hub with the ability to choose from around the wheel the appropriate response for the situation in order to gain of compliance from an individual that is to be restrained or controlled. The reasonable force option that will safely accomplish lawful objectives should be chosen.

B. Officers must be familiar with all alternative options on the "force wheel" and should be prepared to respond to the level of the threat present at the specific moment in time, (e.g. compliance, escalation, de-escalation).

C. Response to resistance options will not be used under the following conditions:

1. As a threat to make a person comply with an officer's verbal order when no physical violence is imminent;
2. to elicit information from a person; or
3. as a retaliation for verbal or physical abuse.

D. The Department's Response to Resistance Wheel shall serve as a basis for the use of an officer's discretion in responding to perceived threats of aggression and are listed in the following ascending order:

1. **MERE PRESENCE** - at the scene by a uniformed officer displaying a professional demeanor may be sufficient to gain control and compliance;

2. **VERBAL COMMAND/COMMUNICATION** - an officer may be able to gain voluntary compliance by using their voice. Verbal commands given in a clear and concise manner may gain control and compliance in certain instances. The following are examples of verbal commands: “Stop, Police”; “Police, Don’t Move” and “You’re Under Arrest, Put Your Hands on Your Head.”

3. **DEFENSIVE TACTICS**

PROCEDURES for USAGE

a. Defensive tactics are a response to resistance option to gain compliance from resistant or aggressive individuals in arrest or other enforcement situations. Officers shall use only the amount of force that is reasonable in any particular situation. Generally, force may be used to:

- i. Protect the officer or others,
- ii. detain an offender, make an arrest or to sustain the detention of the arrested person;
- iii. overcome resistance; and
- iv. prevent an escape or recapture a subject after an escape.

b. Once a subject is restrained and under control, the use of physical force shall be limited to that force that is reasonable to retain control over the subject.

c. While in a face-down position officers shall not hogtie an individual who is detained, due to the risk of positional asphyxia. An individual, who has been placed in a face down position for hand cuffing purposes shall be returned to an upright position immediately after cuffing.

d. When using defensive tactics officers, should consider the particular subject and any vulnerability. These may include person(s) who are small in stature, very frail, or are in a mental/medical crisis and are subject to greater impacts.

PROCEDURES for TRAINING

a. Defensive tactics training is mandated by the Virginia Department of Criminal Justice Services. All officers shall be trained in the use of defensive tactics and will be provided the training in the basic law enforcement training academy. Defensive tactics training will be refreshed to all officers on an annual basis by the department’s defensive tactics instructors.

4. CONDUCTED ENERGY WEAPONS (CEW's)

PROCEDURES FOR ISSUANCE and MAINTENANCE

- a. A CEW as a force option is the same level of force as impact weapons.
- b. The Charlottesville Police Department deploys CEWs manufactured by Axon. These CEW's are assigned to the control of the CEW Program Commander, or their assigned designee. All CEWs will be catalogued to include serial number, officer, and location of assignment.
- c. Spare CEWs, cartridges, batteries and holsters will be stored in the Department's armory while not deployed in the field.
- d. CEWs may be assigned to individual officers as issued equipment and must be maintained by the issued officer as other electronic and firearms equipment. Officers who are issued CEWs shall abide by all provisions of this policy pertaining to maintenance and testing and shall ensure proper storage and safekeeping.
- e. Officers who are issued a CEW shall spark test their device prior to the start of their shift during roll-call as part of their daily inspection to ensure the CEW is functioning properly.
- f. All CEW units will be downloaded quarterly to ensure that all deployment/activations have been reported as required as well as resetting the internal clock. The CEW Program Commander, or their designee will keep documentation of the quarterly audit.
- g. CEWs that are not operating properly will be promptly submitted to an on duty supervisor with documentation of any problems to be forwarded to the CEW Program Commander, or their designee. A replacement CEW will be issued only by the CEW Program Commander, or their designee.

PROCEDURES FOR USAGE

- a. A CEW must be worn on the weak-side in either a weak-hand draw or cross-draw position.
- b. A CEW deployment shall not be considered for the passively resistant subject. Active resistance or active aggression shall be required. *Active resistance* is an affirmative physical action on the part of the suspect with a purpose to overcome an officer's attempts to detain, arrest, or otherwise physically control a suspect's movement. Such resistance includes things such as striking, kicking, pushing, holding, and other acts of physical aggression. Flight may also constitute active resistance; however, flight from an officer **alone** is **NOT** justification for the use of a CEW.
- c. A CEW may be used to affect an arrest of a fleeing suspect when the officer has a warrant or probable cause to make an arrest absent a warrant, with the following considerations:
- i. The seriousness of the offense;
 - ii. the threat the suspect poses to the officer or others; and
 - iii. the level of resistance offered by the suspect.
- d. A CEW may be used to affect a stop of a fleeing suspect when the officer has reasonable suspicion to believe that a felony has been committed. A CEW may also be utilized to affect the stop of a fleeing suspect when an officer has reasonable suspicion to believe that a crime of violence or threats of violence has been committed against a person.
- e. A CEW shall not be used, when only reasonable suspicion exists, to affect the stop of a suspect when the crime in question is a misdemeanor non-violent crime.
- f. Multiple CEW deployments against an individual may increase the likelihood of serious injury where the individual is experiencing other physical distress such as cocaine intoxication. Policy and training should encourage officers to minimize the successive number of discharges against such individuals whenever safely possible.
- g. The agency recognizes however, particularly where back-up officers are unavailable, that multiple applications may be necessary to gain or maintain control of a combative individual.
- h. No officer shall deploy a second or additional CEW against a single individual unless the officer can articulate the reasonableness of a second or additional deployment.
- i. A contributing factor to serious injury or death is the level of a subject's exhaustion. When an officer believes that control of a subject will be

necessary and met with resistance, deployment of the CEW should be considered early on if possible in the event so that the person has not reached a level of exhaustion prior to the CEW's use.

j. In cases where a subject is actively resisting an officer's attempt to take them into custody but not threatening the officer with an assault, it is recommended that the CEW be used in the "push [drive] stun mode". Multiple deployments in the drive stun mode are prohibited as such deployments may result in death or serious bodily injury.

k. Officers should avoid deploying the CEW for more than two five second cycles or an accumulative time of fifteen seconds. If after the second cycle the CEW is having no effect on the suspect, officers shall reassess their response to resistance options.

l. A warning prior to discharge is preferred but not always necessary for this type of force to be considered reasonable, model policies as well as courts have noted that giving a subject, who is assaultive toward the officer, a warning may enhance the danger to the officer and the subject by giving the subject time to avoid the deployment. See: *Draper v. Reynolds*, 369 F.3d 1270 (11th Cir. 2004).

m. Officers shall make all efforts to warn other officers that a deployment is about to occur.

n. Officers should be aware that a subject's heavy clothing may impact the effectiveness of the conducted energy weapons.

o. Officers should consider whether the subject has been exposed to combustible elements that may be on their person such as gasoline. The use of a CEW on such persons may cause an ignition and fire. CEWs shall not be used in any environment where an officer knows that a potentially flammable, volatile, or explosive material is present.

p. When deploying a CEW, the preferred targeting area is the center mass of the subject's back; however, it is recognized that it is not always possible to get behind the subject and therefore officers shall make all reasonable efforts to avoid CEW deployment to the head, neck, eyes, genitals or upper chest area. (*see AXON TRAINING BULLETIN below that outlines preferred targeting areas*)

AXON TRAINING BULLETIN

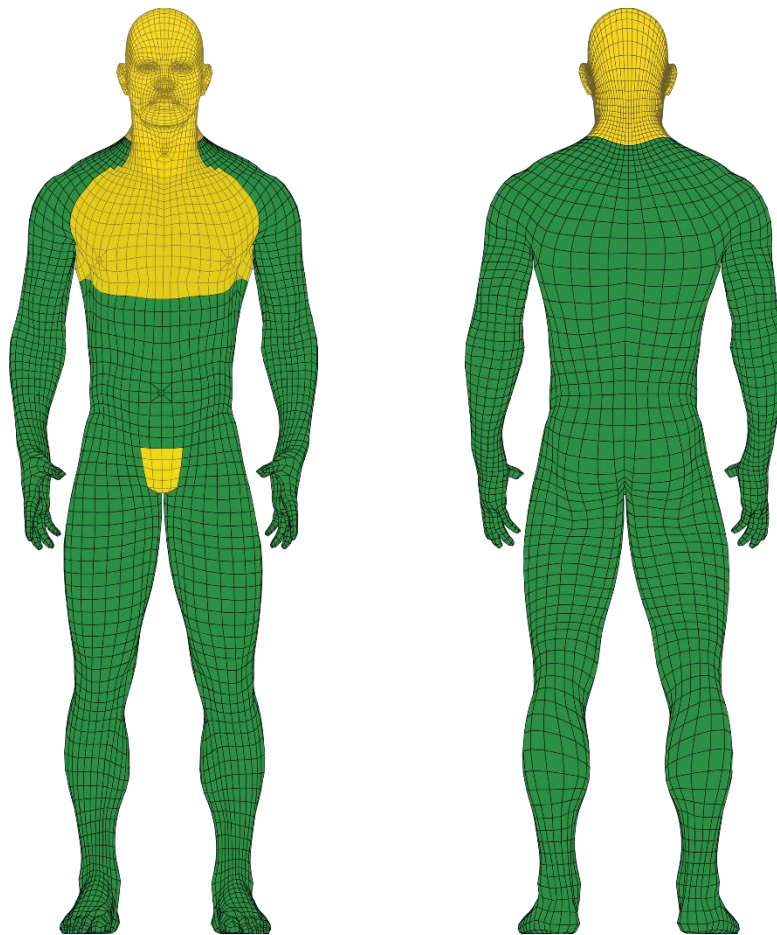
In 2019 AXON issued an amended Targeting Guide that applies to the XREP impact munitions as well as CEWs such as the X26, M26 and X3.

Note, AXON lowered the recommended point of aim from center of mass to lower-center of mass for frontal shots. The green highlighted area in the adjacent target man represents the preferred target area.

AXON articulated three reasons:

1. Simplify targeting for all TASER systems to one easy to remember map, avoiding chest shots when possible and the risk of a head/eye shot in a dynamic situation, as is standard for impact munitions;
2. When possible, avoiding chest shots with CEWs avoids the controversy about whether CEWs do or do not affect the human heart; and
3. Close-spread CEW discharges to the front of the body are more effective when at least one probe is in the major muscles of the pelvic triangle or thigh region.

Back shots remain the preferred area when practical, preferred target areas in green.



q. EMS assistance must be utilized for the removal of darts that have penetrated the skin as long as such removal can be accomplished without causing further injury or pain to the subject. Officers are reminded that immediate medical attention shall be afforded a subject on whom a CEW

has been deployed if the suspect is injured, showing signs of medical distress, or does not appear to be recovering from the effects of the CEW, or otherwise requests medical attention.

r. All persons who have been the subject of a CEW deployment shall be monitored for a period of time with a focus on symptoms of physical distress and shall be transported to a medical facility for a medical examination clearance. It should be noted that studies indicate that persons who suffer from excited delirium may not be immediately impacted and the onset of difficulty may occur a period of time after the police control the event.

s. Medical clearance will not be required if the person refuses treatment; however, the jail staff shall be notified of the CEW deployment so that their medical staff has the opportunity to examine the individual. This notification shall be documented on the arrest work sheet and in the IBR and will state that the jail was notified and that the person refused medical treatment.

PROHIBITED USAGE

a. Officers are strictly prohibited from using CEW's as a punitive measure.

b. Officers who are aware that a female subject is pregnant shall not use the CEW **unless** deadly force would be justified due to the danger created by the secondary impact or the possibility of muscle contractions leading to premature birth.

c. CEW's shall not be used against a person who is in physical control of a vehicle, bike, or motor scooter in motion **unless** deadly force would be justified based on an existing imminent threat.

d. CEW's shall not be used on a handcuffed person to force compliance **unless** the subject is actively resistant and control cannot be otherwise accomplished.

e. Officers should consider the location and environment of the subject, e.g. the subject is at the top of a stairwell that when incapacitated by the CEW they fall down the stairs causing a collateral injury. This is the same in cases where the subject is elevated e.g. roof fire escape, tree, bridge, stairwell, etc. such that the secondary impact may cause serious injury **unless** deadly force would be justified based on an existing imminent threat.

f. Alternative tactics shall be utilized where the officer has prior information that the subject suffers from a disability which would increase

the danger to that person by using the CEW. For example, a person at the scene tells an officer that the subject has a heart condition.

PROCEDURES for TRAINING

- a. All officers will be trained in accordance with Department guidelines before being authorized to utilize a CEW in the field.
- b. Training shall consist of a standardized 6 hour course of instruction by certified CEW instructors providing a minimum of two practice firings.
- c. A copy of the lesson plan shall be filed in the Department's training office.
- d. All officers must show basic knowledge of the CEW in the form of a written test at the end of training.
- e. A CEW refresher course shall occur annually and consist of physical competency, two practice firings, device retention, changes in agency policy, technology changes and reviews of local and national trends in CEW use.
- f. Officers must be trained concerning the ability of an electrical charge to act as an ignition for combustible materials. (Note: Officers have been seriously injured and or killed after deploying a CEW in the presence of open natural gas.)

PROCEDURES for DOCUMENTATION of CEW USE

- a. Photographs of the drive-stun area and/or area(s) struck by the CEW probes shall be taken. When the drive-stun method has been used, photographs are extremely important due to the increased potential for this method to cause scarring.
- b. Darts, cartridges, and confetti tags shall be properly stored and maintained as evidence following a discharge resulting in serious injury or death
- c. All CEW deployments and weapon compliance shall be reviewed by the agency chain of command up to the Chief of Police
- d. In every instance when a CEW is deployed, internal data from the device shall be maintained and become a part of the response to resistance reporting file.

5. Oleoresin-Capsicum (OC SPRAY)

PROCEDURES for ISSUANCE and AUTHORIZATION

a. Oleoresin-Capsicum Solution (OC Spray) is issued by the department to officers in aerosol spray canisters. In addition, the Department may use larger canisters of OC spray to control unruly crowds. The larger canisters of OC spray are under the control of the shift supervisor and can be used to provide officers with an additional option for gaining compliance in specific arrest or other enforcement actions.

b. Members of the Department are required to carry and use only department issued OC spray aerosol canisters while on duty and/or in uniform, unless specifically authorized not to do so by a division commander.

PROCEDURES FOR USAGE

a. OC spray is an authorized option in the Response to Resistance Wheel and it shall be employed in a manner consistent with the provision of this directive.

b. Officers using OC spray, when practical, shall first issue a verbal warning to the offending subject.

c. Situations where OC spray may be considered an option include, but are not limited to the following:

i. The officer's mere presence and/or verbal commands are ineffective and the subject's use of physical force against the officer or another is probable; and

ii. the suspect is not under the officer's physical control and the subject possesses a physical threat to their self, the officer or others.

d. The OC spray target area shall consist of the facial area.

e. The use of OC spray is no longer justified once a suspect or assailant is incapacitated or restrained.

f. The use of OC spray shall be consistent with the manufacturer's specific guidelines and departmental policy and training.

PROCEDURES for DECONTAMINATION

a. After the control over the subject has been established or the subject's resistance has ceased, the officer shall make a reasonable effort to allow the OC affected subject relief from the discomfort associated with the OC application. The officer will provide decontamination flush and/or water to the affected area as soon as possible after the application incident and will

summon emergency medical services to respond to the scene to render any additional medical care that is deemed necessary.

b. The officer should remain alert to any concerned behavior to report to emergency medical services personnel upon their arrival. Concerned behavior includes but is not limited to;

- i. Breathing difficulties;
- ii. gagging;
- iii. profuse sweating; and
- iv. loss of consciousness.

PROCEDURES for TRAINING

a. All officers must complete a two-hour course on the use of OC spray before being authorized to carry or use OC spray. The training curriculum will be approved and coordinated by the Department Training Supervisor, and be in compliance with any existing Virginia Department of Criminal Justice Services compulsory minimum training requirements.

b. All officers who carry OC spray shall be required to undergo annual refresher training on the use and deployment of OC spray. It shall be the responsibility of the Department's Training Supervisor to ensure that refresher training is incorporated into the In-Service Training curriculum every two years.

6. (PEPPERBALL GUN *Oleoresin Capsicum Powder Projectile*)

PROCEDURES for ISSUANCE and AUTHORIZATION

a. Only trained personnel are authorized to operate the gun; however, the supervisor in charge may designate temporary, emergency operators at their discretion. In such a case, the supervisor in charge shall submit a memo explaining the circumstances of deployment through the chain of command to the Office of the Chief of Police.

PROCEDURES for USAGE

a. Pepper Ball Guns may be used in a variety of law enforcement situations that afford the utilization of less-than-lethal force. Operators can expose subjects to OC pepper dust from extended distances by striking their bodies or objects in their vicinity with a pepper ball projectile. As with OC sprays, the OC dust from the ruptured projectile causes temporary pain and

irritation of the subject's mucous membranes, hence facilitating an arrest with less resistance and risk of injury.

PROCEDURES for TRAINING

- a. The Division Commanders shall coordinate training with the Firearms Supervisor to familiarize department supervisors and designated officers with the operation and deployment of the Pepper Ball Gun.
- b. Unit Commanders may request that members in their command be trained with the Pepper Ball Gun by submitting a written request through channels to their Division Commander. If approved, the request will be forwarded to the Firearms Supervisor for coordination of training.
- c. The Firearms Supervisor shall coordinate yearly in-service training and be responsible for disseminating new training information and data/analysis from department Pepper ball Gun deployments to all authorized operators.
- d. The Firearms Supervisor shall maintain a list of authorized operators that will be generated following each year's training date and forwarded to the Division Commanders and the ECC.
- e. The Division Commander shall be responsible for analyzing manpower and ensuring coverage of patrol shifts by trained operators at all times.

PROCEDURES for DECONTAMINATION

- a. After the control over the subject has been established or the subject's resistance has ceased the officer shall make a reasonable effort to allow the Pepper Ball Gun affected subject relief from the discomfort associated with OC application. The officer will provide decontamination flush and/or water to the affected area as soon as possible after the application incident and will summons emergency medical services to respond to the scene to render any additional medical care that is deemed necessary.
- b. The officer should remain alert to any concerned behavior to report to emergency medical services upon their arrival. Concerned behavior includes, but is not limited to:
 - i. Breathing difficulties;
 - ii. gagging;
 - iii. profuse sweating; and
 - iv. loss of consciousness.

7. (OC Oleoresin Capsicum, CS 2-chlorobenzalmalononitrile and smoke canisters)

PROCEDURES for ISSUANCE and AUTHORIZATION

- a. OC, CS, and smoke agents are used primarily in dealing with unruly crowds and armed barricaded subjects.
- b. The use of chemical agents such as OC gas, CS gas and chemical smoke will be used only at the direction of the Field Operations Division Commander with the approval of the Chief of Police. If the Field Operations Division Commander is unavailable, the SWAT Commander is authorized to approve the use of chemical agents during exigent circumstances.

PROCEDURES for USAGE

- a. CS gas is primarily used after Department negotiations have failed in dealing with unruly crowds and/or armed barricaded subjects. Under these circumstances, a departmental command post has been established, an Incident Commander appointed, and a unified command structure in place. Thus, any decisions to resort to this particular instrumentality of force would have been properly vetted considering all available tactical options and legal constraints. Absent exigent circumstances, CS gas shall not be deployed without the express authorization of the Chief of Police or their designee or by the approval of an Incident Commander per an approved operational plan. If an exigent circumstance should arise where there is no operational plan in place, the appointed Incident Commander may give the order for the deployment of CS gas as long as they have come to the conclusion that such deployment is necessary to preserve safety and restore control of a group of individuals that present an imminent threat of violence. The Incident Commander will be responsible for clearly articulating the basis of their decision.

PROCEDURES for TRAINING

- a. Chemical agents will only be used or deployed by members of the Department who have been specifically trained in the use and deployment of the specific chemical gas to be used. The Field Operations Division Commander shall maintain a current list of officers trained in the deployment of chemical agents.
- b. CS Gas Grenades - The Department uses green, red, yellow and blue smoke grenades.
- c. CS Gas - The Department possesses several different forms of OC and CS gas hand tossed grenades, as well as gas projectiles that are deployed by a shotgun or 37mm/40mm shoulder type gun.
- d. CS Gas Guns - are used to fire projectiles to the area of an armed barricaded subject or unruly crowds when the use of hand tossed grenades would be unsafe or impractical. The Department has in its arsenal a 37-mm and a 40mm shoulder type CS gas weapon with a one round capacity and a special 12-gauge shotgun barrel adapter that enables the shotgun to discharge a CS gas canister.

e. No one shall be authorized to deploy any form of CS gas without having been properly trained in its deployment.

8. IMPACT WEAPONS

PROCEDURES for ISSUANCE and AUTHORIZATION

a. The Department equips its officers with the side handle baton and collapsible ASP batons (either 21 or 26 inch models) to provide the officer with additional response to resistance options to gain the compliance of resistant and/or aggressive individuals in arrest or other enforcement situations. It is the policy of the Department that officers use their issued batons in accordance with the guidelines and procedures set forth in this directive.

PROCEDURES FOR USAGE

a. Batons are authorized for use as a means to:

i. Maintain physical control or restraint of a subject;

ii. defend the officer or another person; and

iii. officers should avoid striking any person with a baton in or about the head, unless use of deadly force is being used against the officer or multiple persons attack the officer.

b. All officers shall have the Department issued police baton accessible while on regular duty assignments.

c. Uniformed officers shall be required to have the baton accessible when answering complaints and/or performing enforcement activities.

d. All other officers shall be required to have the baton accessible at the police department.

e. Officers involved in approved extra-duty law enforcement related employment pursuant to CPD General Order 512.01 shall have the baton accessible when performing the enforcement activity.

PROCEDURES for TRAINING

a. No member of the Department shall carry or use any baton until they have been instructed in the use of that baton. Members will not be authorized to carry or use a baton until they have successfully completed a minimum eight hours of baton instruction conducted by a certified Virginia Department of Criminal Justice Services Certified Defensive Tactics Instructor approved by the Department. The eight hours of instruction may be received during basic entry level law enforcement training at a DCJS local regional law

enforcement training academy or through a Department DCJS certified defensive tactics instructor.

b. Department defensive tactic instructors shall approve and authorize a member of the Department to be issued a baton.

c. All officers issued a baton shall attend and successfully complete retraining in the use of their baton bi-yearly as part of the regular In-Service Training process.

d. No personally owned batons may be carried.

9. LESS THEN LETHAL WEAPONS – (“Flexible baton” or “Bean Bag” rounds)

PROCEDURES for ISSUANCE/AUTHORIZATION and TRAINING

a. The department also issues 12 gauge shotguns marked with orange stocks designating them as "Less Lethal" shotguns. These shotguns will be issued with shotgun shells loaded with devices commonly known as "Flexible Batons" or "Bean Bags". These rounds may be employed in the same situations as hand held batons and the same guidelines shall apply.

b. The Field Operations Division Commander shall ensure supervisors are issued and trained in the use of the flexible baton “Bean Bag” rounds in coordination with the department firearms supervisor.

c. These shotguns shall be carried in the supplied soft case and shall be unloaded at all times. The officer issued the shotgun shall load it as necessary and unload it when the incident is completed.

d. The supervisors issued these shotguns shall carry no other shotgun shells in the same carrying case other than the "Flexible Baton" rounds and they shall keep the shotguns under their control at all times.

10. POLICE CANINE (K-9)

PROCEDURES for USAGE

a. the K-9 team has been implemented into the Department for use as a support component to patrol and investigations and when appropriate shall be called to assist in ongoing investigations.

b. Use of trained police canines for law enforcement responsibilities constitutes an actual or implied response to resistance. As in other response to resistance cases, officers may only use that degree of force that is reasonably necessary to apprehend or secure a suspect as governed by the Department’s response to resistance policies and applicable laws considering 1- the severity of the offense, 2- the threat the suspect poses to the officer or others, and 3- the suspects level of resistance. In all instances

where a canine is deployed in a tactical situation, an Incident Based Report shall be completed.

c. whenever a canine bites an individual, whether or not in the line-of-duty, the handler shall:

- i. Call a supervisor to the scene;
- ii. examine the affected area to determine the seriousness of the bite or injury;
- iii. obtain medical treatment for the person—medical personnel should examine the affected area irrespective of the perceived seriousness of the bite or injury; and
- iv. take color photographs of the affected area if possible prior to and following medical treatment.

d. The canine may be used to apprehend those suspects who have committed a felony if the suspect flees or resists arrest.

e. The canine will not be used to apprehend a fleeing suspect who has committed a misdemeanor unless it is a violent misdemeanor and further danger to the victim or the public is probable. The canine may be used however, to apprehend a suspect who has committed any crime where the suspect has been arrested and is actively resisting arrest or fleeing after resisting an arrest.

f. A warning that the canine will be released shall always be given so that the suspect has an opportunity to surrender, unless circumstances dictate it to be tactically unsafe to do so.

g. If no other crime is involved, the Canine Team should not be used to apprehend a mentally disturbed person or anyone suspected to be under the influence of drugs or alcohol.

11. DISTRACTION DEVICES

PROCEDURES for USAGE

a. The Department utilizes a distraction device to aid the SWAT Team with its special operations. A distraction device upon detonation will emit a high intensity flash of light and a loud report. The flash and report are intended to be used to distract and temporarily incapacitate a subject(s) prior to officer entry into a building or one of its rooms.

PROCEDURES for AUTHORIZATION and TRAINING

a. Only specially trained members of the SWAT team shall use distraction devices.

b. Distraction devices shall not be ordered without prior authorization from the Chief of Police and when approved its purchase shall be coordinated by the SWAT team commanding officer.

- c. Distraction devices shall not be deployed without prior authorization from the Chief of Police or their designee

12. FIREARMS

PROCEDURES for ISSUANCE and AUTHORIZATION

- a. No officer will be authorized to use or carry a firearm until that officer is issued a copy of both the Response to resistance – General and Response to resistance – Firearms directives and is instructed on the contents contained therein.
- b. No officer shall be authorized to carry any firearm until the officer has achieved proficiency with the firearm and accomplished a qualifying score under the supervision of a certified DCJS Firearms Instructor.

PROHIBITED USE OF FIREARMS

- a. Officers will not use their firearms to discharge warning shots.
- b. Officer shall not jeopardize the safety of innocent bystanders by firing into a crowd.
- c. Officers shall not discharge their firearm to affect the arrest or prevent the escape of a person who has committed a misdemeanor offense.
- d. Officers shall not use their firearm as an impact weapon unless it's a weapon of last resort.

POLICE INVOLVED SHOOTINGS

- a. the following procedure shall be followed in the event of a police involved shooting, except for the authorized destruction of an animal.
- b. It shall be the responsibility of the on-duty shift commander to immediately notify the Chief of Police or the next in command on the emergency command list of all instances of any shooting that has occurred in the City of Charlottesville by any sworn officer of this Department or any sworn officer of another jurisdiction.
- c. The Commander of the Investigations Bureau or their designee will be responsible for conducting the criminal investigation of the shooting and filing a complete report with the Chief of Police at the completion of the investigation.
- d. The Commander of the Investigations Bureau shall also ensure the prompt notification of the Commonwealth's Attorney or their designee.
- e. Please see General Order for Critical Incident Response for further response procedures governing a police involved shooting.

UNINTENTIONAL DISCHARGE of FIREARM

- a. Any officer who unintentionally discharges a firearm (except while on the firing line during departmental sanctioned firearms qualification or practice) shall immediately notify their supervisor who will in turn notify the appropriate Division Commander.
- b. It shall be the responsibility of the Division Commander or their designee to notify the Chief of Police.
- c. A supervisor shall respond to the location where the unintentional discharge took place and conduct a preliminary investigation to determine the circumstances which led to the discharge as well as determine the reason for the discharge to the extent possible from the evidence on the scene and the statement by the involved officer or others present at the time.
- d. In the event the incident occurs in another jurisdiction, that jurisdiction shall be notified.

Provided no one is injured as a result of the discharge, the officer's firearm and the extracted casing shall be secured and forwarded to the departmental armorer for examination. In the event an injury occurred, the firearm and the extracted shell casing shall be handled in accordance with appropriate evidence processing procedures related to criminal investigations as determined by Forensic personnel on the scene or otherwise consulted.

- e. Once it has been determined that the investigation of the discharge will be limited to administrative review, a digital recorded statement of the officer's account shall be secured by the investigating supervisor and the officer shall be directed to prepare a written report. The officer's written report shall state all circumstances surrounding the incident.
- f. In the event the investigation is deemed criminal at the onset, the involved officer shall be afforded any and all procedural safeguards that attach during the course of a criminal investigation. A compelled statement from the involved officer shall not take place without the express direction of the Chief of Police and after the administration of the appropriate Garrity advisement.
- g. Upon completion of the supervisor's investigation, which may include taking of statements from others with knowledge of the incident, the investigating supervisor shall prepare a report of their findings and recommendations for review by the Chief of Police.
- h. If the facts of the incident support a conclusion that the unintentionally discharged round was a result of negligence the officer discharging the round may be subject to repeat firearms certification training, or may receive other discipline or remedial action as determined by the Chief of Police.
- i. With regard to unintentional discharges on the firing-line during firearms training, the following procedure shall be utilized: When the firearms

instructor on the scene does not deem the discharge to have resulted from human error, the officer's firearm is to be immediately inspected for malfunction and sent to the departmental armorer for further inspection. All such discharges are to be documented and forwarded to the appropriate Division Commander.

VI. RESPONSE TO RESISTANCE REPORTING REQUIREMENTS

RESPONSE TO RESISTANCE REPORT PROCEDURES

A. Officers shall complete a SUBJECT RESISTANCE REPORT to document all response to resistance incidents involving any of the following circumstances:

1. When the response to resistance results in death¹ or any personal injury or complaint of personal injury to a bystander, officer or suspect;
2. when the response to resistance results in property damage;
3. where the response to resistance is either OC spray, CEW, chemical riot agents in form of OC or CS gas, smoke grenades, police canine, baton(s), less-lethal projectiles, distraction devices or the discharging of firearms (except during qualification/practice or the destruction of an animal);
4. where the physical force applied involves hitting, slapping, or striking an individual;
5. where the response to resistance results in a vehicle pursuit that consisted of a maneuver of physically stopping the pursued vehicle, (e.g.. stop sticks, road block, accident, etc.); and(Ref. Sec. 541.25)
6. where the force used involved a weapon not specifically mentioned in the departmental Response to Resistance Policy.

COMPLETION OF THE INITIAL SUBJECT RESISTANCE REPORT

A. Officers will immediately notify their shift supervisor of any response to resistance mentioned in this directive, whether or not an arrest was made.

B. In addition to the Incident Report, a SUBJECT RESISTANCE REPORT will be submitted by the officer to the shift supervisor and both shall include the following elements:

1. A complete and thorough description of the incident, and the facts and circumstances that led to the response to resistance;
2. the severity of the offense suspected;
3. how the subject posed an immediate threat to the officer or others;
4. how the subject was actively resisting arrest or attempting to escape¹;
and

5. a complete description of any injuries sustained, pictures of any reported injuries, and medical services rendered

SUPERVISORY RESPONSE, REVIEW, AND DOCUMENTATION

A. In the event of a serious injury to the subject or officer, use of impact weapon, police canine, CEW, or OC exposure; the immediate supervisor receiving notification as to the response to resistance shall immediately respond to the scene, ensure the safety and well-being of the involved officer(s) and suspect(s) and begin an investigation to determine whether the officer's response to resistance was consistent with departmental policy, training, and law. Subject Resistance Reports that require a Supervisor's response and subsequent investigation shall be submitted through the chain of command to the Chief of Police within a reasonable amount of time.

B. In the event the subject on whom force was used invokes his right to counsel prior to being interviewed by the supervisor authorized to conduct the administrative investigation, the investigating supervisor shall refrain from obtaining a statement until they consult the Commonwealth's Attorney.

C. The supervisor shall prepare a summary of their findings and attach it to the SUBJECT RESISTANCE REPORT. This report shall include the following elements:

1. The time the supervisor responded;
2. steps taken to secure the scene, officer and suspect;
3. witnesses identified and interviewed including recorded statements;
4. summary of alleged injuries and injury/scene photographed;
5. suspect's interview and recorded statements;
6. receipt of release of medical information from suspect;
7. description of injuries of suspect and/or officer and medical treatment provided; and
8. Retrieval of relevant BWC images, dispatch tapes, or MDC data.

D. If the subject of the response to resistance is not seriously injured (e.g., complaint of pain, minor abrasion, or small scrape) the supervisor need only review, sign, and date the SUBJECT RESISTANCE REPORT. The reviewing supervisor shall include copies of any related incident reports, photographs, witness summaries or any other pertinent information, and submit it through the chain of command to the appropriate Division Commander within a reasonable time period after the incident. It shall be the responsibility of the appropriate Division Commander to notify the Chief of Police of any response to resistance incident which results in serious injury to a citizen or an officer as soon as practical, but in any event within 24 hours from the occurrence of the incident. In the case of officer

involved shootings and deaths resulting from a response to resistance, such notification shall be immediate or at such time when it is operationally safe and feasible to do so.

E. A superior officer shall review the report and attachments for completeness and policy compliance, sign and date the SUBJECT RESISTANCE REPORT, indicate whether it was approved or disapproved and forward the entire packet to the next level in the chain of command. In doing so, the reviewing supervisors shall consider relevant training, policy, and law pertaining to the response to resistance administered by the officer.

F. All attachments shall be considered part of an active investigation, and where appropriate, the personnel record of the reporting officer(s).

1. The documents shall be handled with the utmost confidentiality and will not be filed with Management Services Bureau. The confidential material will not be discussed with or delivered to anyone other than those persons named in this directive without prior authorization by the Chief of Police.

2. Supplemental or follow-up information derived from the supervisor's investigation will be documented in memo form and included in the Response to Resistance investigation packet.

3. If the Department receives a formal citizen complaint on a response to resistance issue, which will require an internal investigation by the Internal Affairs Investigator, the officer(s) involved in the response to resistance incident may receive a copy of the SUPERVISOR'S REVIEW FORM –Resistance Report Form and any supplemental attachments.

FILING AND DISPOSITION of Response to Resistance DOCUMENTATION

A. When a response to resistance incident has completed its review process, the SUBJECT RESISTANCE REPORT and all investigative attachments shall be forwarded to the Professional Standard Unit – Internal Affairs Lieutenant for filing.

B. The Internal Affairs Lieutenant shall be responsible for ensuring that all documentation relating to Departmental response to resistance incidents are properly stored and expunged where appropriate.

C. Department Weapon Compliance Form CPD 925 shall be completed after an incident in which an officer warns and physically displays a weapon (baton, OC, Taser, Police canine, and firearm) to be used against an individual but gains compliance from the suspect without having to deploy said weapon. Deployment of weapons not threatened for use against a subject (e.g., building searches does not require a department weapon compliance form.

ⁱ A Response to Resistance investigation which results in death or serious bodily injury will begin as a criminal investigation during which time a designated supervisor will prepare a preliminary Response to Resistance report. The involved officer shall be afforded the appropriate procedural safeguards due someone who has become the

focus of a criminal investigation. A compelled statement, oral or written, shall not take place until such time as authorized by the Chief of Police and after the administration of the appropriate admonishment.