



Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: Response to Resistance, General Guidelines / Options	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 601
		Effective: 10/2022
		Page 1 of 7
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: ASD		
Reference: SDCL 22-18-2; 22-18-3; 22-18-4; 23A-3-5; 18 U.S.C. § 1365 (h) (3)		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

- 1.1. The purpose of this policy is to direct officers of the Sioux Falls Police Department in the appropriate response to resistance.

2. Policy:

- 2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in use of force events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. All responses to resistance must be objectively reasonable.

3. Definitions:

- 3.1. **Deadly Force** – Any force that is likely to cause serious bodily harm or death.
- 3.2. **Imminent** – Impending or about to occur. Has a broader meaning than immediate or instantaneous, the concept of imminent should be understood to be elastic, involving an ongoing period of time depending on the circumstances rather than a moment in time under the definition of immediate.

This document is the property of the Sioux Falls Police Department.
 Reprinting of this document is prohibited without permission from the Chief of Police.

- 3.3. **Immediate** - Instantaneous, or presently occurring threat of serious bodily harm or death.
 - 3.4. **Non-Deadly Force** – All uses of force other than those that is likely to cause serious bodily harm or death.
 - 3.5. **Objectively Reasonable** – The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer responding to the resistance is presented.
 - 3.6. **Reasonable Belief** – Reasonable belief means that the person concerned, acting as a reasonable person believes that the prescribed facts exist.
 - 3.7. **Serious Bodily Harm: (18 U.S.C. § 1365 (h) (3))** – The term "serious bodily injury" means bodily injury which involves
 - 3.7.1. a substantial risk of death;
 - 3.7.2. extreme physical pain;
 - 3.7.3. protracted and obvious disfigurement; or
 - 3.7.4. protracted loss or impairment of the function of a bodily member, organ, or mental faculty.
 - 3.8. **Choke Hold** – A physical maneuver or technique that, by means of applying direct pressure to the throat, windpipe, or airway of another, is intended to reduce or prevent the intake of air. "Chokehold" does not include any holding involving contact with the neck that is not intended to reduce the intake of air.
 - 3.9. **Neck Restraint** - A method of rendering a person unconscious by restricting the flow of blood to the brain by compressing the sides of the neck where the carotid arteries are located. This includes Level 3 of the Shoulder Pin maneuver.
 - 3.10. **Positional Asphyxia** - A form of asphyxia which occurs when someone's position prevents the person from breathing adequately. People may die from positional asphyxia accidentally, when the mouth and nose are blocked, or where the chest may be unable to fully expand.
4. Procedure:
 - 4.1. When the response to resistance is necessary in the course of their duties as law enforcement officers, all officers of this department shall strive to use the techniques obtained by approved departmental training. However, while techniques obtained by approved departmental training are preferred, circumstances may justify an officer's use of other techniques. While using departmentally approved training techniques or other technique, all officers' reactions to the subject's actions shall be appropriate and only that reasonably necessary based on the totality of the situation. Every situation is a continuous engagement and officers need to

continually evaluate the propensity for injury and have the ability to disengage or escalate at any time.

4.2. In determining the appropriate response to resistance, officers should apply the levels of force under the department's trained response to resistance options along with the following three factor test (Graham v. Connor):

4.2.1. How serious is the offense the officer suspected at the time the particular force used?

4.2.2. What was the physical threat to the officer or others?

4.2.3. Was the subject actively resisting or attempting to evade arrest by flight?

4.3. The legal level for the use of force is set by three factors:

4.3.1. Federal Law

4.3.2. State Law

4.3.3. Departmental Policy and Procedure

4.4. **South Dakota statutory law provides:**

4.4.1. To use, attempt, or offer to use force or violence upon or toward the person of another is not unlawful when necessarily committed by a public officer in the performance of any legal duty or by any other person assisting him or acting by his direction.

4.4.2. Under the South Dakota statutory authority, the force used by a police officer is unlawful when it becomes greater than necessary to carry out his duties.

4.4.3. An arrest is made by an actual or attempted restraint of the person arrested or by his submission to the custody of the person making the arrest. No person shall subject an arrested person to more physical restraint than is reasonably necessary to affect the arrest. Any person making an arrest may take from the arrested person all dangerous weapons and property as defined by state law, which the arrested person may have about his person.

4.4.4. To use or attempt to use or offer to use force or violence upon or toward the person of another is not unlawful if necessarily committed by any person in arresting someone who has committed any felony or in delivering that person to a public officer competent to receive him or her in custody.

4.5. **Force Options:**

4.5.1. **De-escalation** - Force can often be avoided through the use of de-escalation techniques and other non-dynamic, law enforcement tools such as police presence, containment, and communication. When feasible, officers will use de-escalation and other techniques to reduce the immediacy of threats to peoples'

safety and to stabilize incidents. Whenever possible, officers will seek to slow things down. Not every situation or subject can be de-escalated. Conversely, officer behavior can escalate a situation. Officers should not intentionally escalate situations unnecessarily.

4.5.2. **Chokeholds and Neck Restraints** - An officer shall not use a chokehold or neck restraint, to include the Level 3 Shoulder Pin, in the performance of their duties unless deadly force is justified.

4.5.2.1. In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers will not use any method of throat or neck restraint that would restrict the flow of oxygen or the flow of blood of another to prevent the destruction of evidence by ingestion.

4.5.3. Officers have several force options in response to resistance that will be dictated by the actions of the suspect upon the appearance of the police officer. An officer's actions need not follow any sequential order when responding to the resistance being offered. The level of response used by the officer may be equal to or greater than the level of resistance being offered by the subject. Officers may be limited in their options due to the circumstances and actions of the subject. This response should be objectively reasonable in light of the circumstances. For example, an officer who immediately observes a subject with a firearm unjustifiably threatening another may immediately respond with deadly force without considering other force options.

4.5.4. **Response to Resistance Options**

4.5.4.1. **Command Presence:** Visual appearance of officer where it is obvious to the subject due to the officer's uniform or identification that the officer has the authority of law.

4.5.4.2. **Verbal Commands:** Words spoken by the officer directing the subject as to the officer's expectations.

4.5.4.3. **Soft Empty Hand Control:** Officer's use of hands on the subject to direct the subject's movement; Techniques that have a low potential of injury to the subject.

4.5.4.4. **Chemical Spray:** When a subject exhibits some level of active resistance/active aggression, officers may use chemical spray to temporarily incapacitate the subject.

4.5.4.5. **Electronic Control Device:** When a subject exhibits some level of active resistance/active aggression, officers may use an electronic control device to temporarily incapacitate the subject.

- 4.5.4.6. **Hard Hand Control:** Punches and other physical strikes, including knees, kicks, and elbow strikes that have the possibility of creating mental stunning and/or motor dysfunction.
 - 4.5.4.7. **Impact Weapons:** Batons, ASP/Expandable Baton may be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion. Long batons are intended for use in crowd control situations.
 - 4.5.4.8. **Extended Range Impact Devices (40mm):** The 40 MM less lethal launcher is a single or multi-shot launcher with a rifled barrel. It fires specially developed rounds designed and intended for use as less lethal impact munitions.
 - 4.5.4.9. **Canine:** Use of canine to bite and hold subject to prevent escape or to gain control of a subject who is actively aggressing toward officer(s). Prior to deployment of a canine, a warning in the form of an announcement shall be made unless the officer is faced with an imminent threat of serious bodily harm or death to the officer(s), or some other person who is present.
 - 4.5.4.10. **Deadly Force:** Force that is likely to cause serious bodily harm or death.
- 4.6. **Deadly Force:**
- 4.6.1. Because of the value of human life, any use of deadly force should reflect the best judgments the officer is capable of rendering under the totality of the situation. This would include assessing the potential danger to bystanders and occupants of vehicles.
 - 4.6.2. When possible, officers of this department shall exhaust every other reasonable means of apprehension, control, restraint, or force before resorting to the use of deadly force.
 - 4.6.3. The use of deadly force is objectively reasonable when:
 - 4.6.3.1. The officer is faced with an imminent threat of serious bodily harm or death to the officer(s), or some other person who is present, or;
 - 4.6.3.2. To prevent the escape of an individual in cases where the officer has probable cause to believe that the subject has committed a violent felony involving the infliction or threatened infliction of serious bodily harm or death AND by the subject's escape they pose an imminent threat of serious bodily harm or death to another.

- 4.6.3.3. Officers should warn the subject prior to using deadly force where feasible.
- 4.6.3.4. Officers of this department are prohibited from using choke holds, except in situations where the use of deadly force is allowed by law.
- 4.7. **Active Resistance**
 - 4.7.1. Once the subject's active resistance has ceased and control has been gained an officer is no longer authorized to use force. Officers should immediately provide any necessary medical assistance to the subject to the degree to which they are trained and provide for emergency medical response where needed.
- 4.8. **Use of Firearms / Response to Resistance and the Undercover Officer**
 - 4.8.1. The Sioux Falls Police Department recognizes that undercover operations necessitate a unique response to incidents involving the response to resistance.
 - 4.8.2. While no policy can anticipate every potential circumstance, certain facts are inherent to the covert law enforcement officer.
 - 4.8.2.1. Undercover officers are not readily identifiable as a police officer. The assailant is not concerned with arrest and even if the undercover officers identifies themselves as a police officer the suspect will not believe them or will be unable to intelligently process the verbal identification.
 - 4.8.2.2. The undercover officer is not equipped with the same defensive weapons as their overt counterpart.
 - 4.8.2.3. Attacks upon an undercover officer may be sudden and very violent with no opportunity for response to resistance options.
 - 4.8.3. All Sioux Falls Police Department officers are authorized to use any reasonable response to resistance options, any reasonable alternative weapon(s) or reasonable means justified by the immediate threat presented to the officer. Use of such alternative force or alternative weapon that has not been specifically approved for use by the Department will be reviewed as any other response to resistance incident.
 - 4.8.4. The Sioux Falls Police Department recognizes that the use of the department standard firearm may not be suitable for some undercover operations. The undercover officer is therefore authorized to carry an alternative firearm with the approval of his/her immediate supervisor and the Chief of Police. Said firearm must be authorized by the department armorer. The undercover officer must qualify with said firearm.

4.9. Duty of Care

- 4.9.1. Officers have an affirmative duty to care for persons in their custody. Officers and supervisors are responsible for providing or obtaining appropriate medical attention to any person in their custody who is injured or complains of injury. This pertains whether the injuries preceded custody, occurred during apprehension, or were sustained during custody. Additionally, officers have an affirmative duty to provide or obtain medical attention for members of the public who are injured as a result of police involved actions.
- 4.9.2. Officers restraining a subject shall be cognizant of and avoid positional asphyxia. This agency prohibits pro-longed, face-down prone restraint of persons. All officers shall have a duty to intervene when they observe someone who is suffering from or has the potential to suffer from positional asphyxia

4.10. Reporting Response to Resistance

- 4.10.1. Police officers are given the authority to use force to overcome a subject's resistance to the officer's order to comply, effect arrest, defend against assault, and prohibit flight. It is incumbent that officers be held accountable to safeguard the rights of members of the public.
- 4.10.2. This policy mandates that members of the department accurately, completely, and in a timely manner, report responses to resistance per Section #600, Policy #602 Reporting Requirements.



Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: Response to Resistance / Control to Active Resistance Reporting Requirements	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 602
		Effective: 6/2020
		Page 1 of 4
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: ASD		
Reference:		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

- 1.1. It is the purpose of this policy to provide police employees and supervisors with guidelines for reporting control to active resistance. The department has a procedure to capture all required information described in this policy.

2. Policy:

- 2.1. Police officers are given the authority to use force to overcome a subject's resistance to the officer's order to comply, effect arrest, defend against assault, and prohibit flight. It is incumbent that officers be held accountable to safeguard the rights of members of the public. This policy mandates that members of the Department accurately, completely and in a timely manner report subject control of active resistance and a supervisor conducts a prompt investigation and reports these investigation findings.

3. Definitions:

- 3.1. **Injury or Complaint of Injury** – Any time the subject being controlled is injured or complains of injury.
- 3.2. **Reportable Control to Active Resistance** – Any force beyond pain compliance used by an officer to compel compliance from a subject in conformance with the officer's

official duties, whether on or off duty or while employed in an off duty paid detail. (Note: Pain compliance becomes reportable upon visible injury or citizen complaint of injury.)

This includes:

- 3.2.1. **Canine use** – Use of a police canine will be reported on a special form to capture any form of use whether there is contact with a subject or not.
- 3.2.2. **Chemical agents** – Use of any chemical agent to overcome subject resistance.
- 3.2.3. **Firearms discharges** – Any discharge of a firearm other than at the range or during qualification whether unintentional, for animal dispatch, or whether a subject is hit or not will be reported in a separate manner consistent with these policies.
- 3.2.4. **Electronic tools** – Use of any electronic equipment on a subject being controlled.
- 3.2.5. **Impact tools/strikes** – Use of any tools, extended range less-lethal munitions, object or body part to strike a subject.
- 3.2.6. **Physical force** – Use of any part of an officer's body, such as joint manipulation, leverage, pain compliance, and take down maneuvers or any levels of a shoulder pin restraint. Use of physical force in such a manner will be documented in the narrative of a case or arrest report completed by the officers involved. (**Note:** *If there are any injuries or complaint of injury associated with the use of physical force, completion of a Response to Resistance ticket in the department's administrative reporting software is required.*)
- 3.2.7. **Pointing of Firearms** – Any time an officer points a firearm at an individual, notwithstanding the fact that deadly force is not ultimately deployed. This does not include drawing a firearm and maintaining at the low-ready position.

4. Procedure:

4.1. **Officer Responsibilities:**

- 4.1.1. Officers who become involved in an incident that required any degree of force are required to immediately notify their supervisor. The involved officer will provide a detailed documentation of the response to resistance utilized in the official police report prepared for the incident involved.
- 4.1.2. A separate Response to Resistance administrative report shall be prepared by each officer involved whenever an officer of this agency utilizes reportable force, as described in the definition of this policy, in the performance of their duties.
- 4.1.3. The administrative report ticket will be completed in detail including a narrative account of the following:

This document is the property of the Sioux Falls Police Department.
Reprinting of this document is prohibited without permission from the Chief of Police.

- 4.1.3.1. The actions of the subject that necessitated that response to resistance as a response to overcome the active resistance of the subject.
- 4.1.3.2. The reasons why force was required and the type of force the officer utilized in overcoming the resistant subject.
- 4.1.3.3. Any injuries or complaint of injuries of either the subject or the officer and any medical treatment received.
- 4.1.3.4. In the case of an off duty officer that respond to resistance with any degree of force meeting the reporting requirements listed above, the administrative report will be initiated by the on-duty supervisor that investigated the incident. The off-duty officer involved will immediately complete the administrative report upon their return to work on their next regularly scheduled work day.

4.2. Supervisory Responsibilities:

- 4.2.1. Once notified of an incident in which an officer has utilized force, a supervisor will immediately respond to the scene to investigate the incident. The supervisor will accomplish the following investigative steps in conducting the investigation:
 - 4.2.1.1. Investigate the circumstances to determine that a response to resistance was justified.
 - 4.2.1.2. Take photographs of the involved officer(s) and subject(s) depicting any potential injuries or documenting the lack of any injuries to the parties involved.
 - 4.2.1.3. Interview (recorded if possible) all witnesses to the incident and document their description of the event.
 - 4.2.1.4. Ensure that a qualified health care provider handles any injuries or other medical condition being experienced by the involved person.
 - 4.2.1.5. The supervisor shall review any video recording of the incident, if available, prior to the completion of the administrative report and the approval of the officer's reports.
 - 4.2.1.6. The supervisor investigating the use of reportable force shall be responsible for the review and approval of the officer's reports of the incident, when practicable.
 - 4.2.1.7. The supervisor will complete a review of the incident prior to completing their shift and submit a written review along with the officer's report to their chain of command for review.
 - 4.2.1.8. **Exceptions: The following do not require the completion of a Response to Resistance administrative report unless otherwise required by the above policy:**

This document is the property of the Sioux Falls Police Department.
Reprinting of this document is prohibited without permission from the Chief of Police.

- 4.2.1.8.1. Handcuffing or escorting a compliant, cooperative subject.
 - 4.2.1.8.2. Physical removal of peaceful demonstrators whom do not resist.
- 4.3. When OC aerosol restraint spray is used, follow the procedures listed in Section #600, Policy #603 Chemical Agents.
- 4.4. A Response to Resistance report will also be completed when a police K-9 is used to effect apprehension.



Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: Response to Resistance / Impact Weapons (Collapsible Batons)	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 604
		Effective: 6/2020
		Page 1 of 2
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: ASD		
Reference:		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

1.1. The purpose of this policy is to direct officers in the appropriate response to resistance.

2. Policy:

2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.

3. Definitions:

3.1. **Impact Weapons** – Collapsible Batons, may be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.

4. Procedure:

- 4.1. Prior to deployment of any less-lethal weapon, officers must be trained and certified in the proper use of the weapon from both the technical and legal aspects. All deployments must be consistent with departmental response to resistance training and policy.
- 4.2. Impact weapons may be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control.
- 4.3. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.
- 4.4. Officers shall not intentionally strike a person in the head with an impact weapon unless deadly force would be justified.
- 4.5. At all times while on duty, all sworn officers in the field shall be required to carry their collapsible baton. Repairs or modifications to the collapsible baton should be done only by the armorer or his designee.
- 4.6. The flashlight should not be used as a defensive tool, except in an emergency situation.
- 4.7. Except in an emergency, handcuffs will not be used as a defensive impact tool.
- 4.8. The use of an impact weapon requires a Response to Resistance report in the department's administrative reporting software. Follow reporting guidelines as listed in Section #600, Policy #602 Response to Resistance Reporting Requirements.
- 4.9. Currently the department issues a collapsible baton manufactured by ASP. Officers are also authorized to carry an Autolock® baton manufactured by Monadnock.



Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: Weapon Repair - Authorization	Related Policies:	Section #: 600 Response to Resistance
		Policy #: 608
		Effective: 6/2020
		Page 1 of 1
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: ASD		
Reference:		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

- 1.1. This policy is created to establish guidelines regarding the repair of department weapons and authorization to carry firearms while on duty.

2. Policy:

- 2.1. It is the policy of the Sioux Falls Police Department that any repairs or modifications to department issued firearms shall be referred to the Armorer. It is also the policy of the department that only firearms that are authorized by the Chief of Police or a division commander may be carried by officers on duty.

3. Procedure:

- 3.1. The serial number of any firearm carried on duty must be recorded with the department Armorer.
 - 3.1.1. This includes personal backup weapons.
- 3.2. All officers are required to carry and use only department-issued ammunition while on duty.
- 3.3. Uniformed officers will use the department-issued safety holster when on duty, except those officers on station assignments.

This document is the property of the Sioux Falls Police Department.
 Reprinting of this document is prohibited without permission from the Chief of Police.



Sioux Falls Police Department

Partnering with the community to serve, protect, and promote quality of life!

Policy: Response to Resistance- Electronic Control Devices	Related Policies: 601, 602	Section #: 600 Response to Resistance
		Policy #: 609
		Effective: 4/2023
		Page 1 of 6
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can be used as basis of a complaint by this department for nonjudicial administrative action in accordance with the laws governing employee discipline.</i>		
Policy Owner: ASD		
Reference:		
Sensitivity Level: <input checked="" type="checkbox"/> Public <input type="checkbox"/> Law Enforcement Eyes Only		

1. Purpose:

- 1.1. The purpose of this policy is to direct officers in the appropriate response to resistance, specifically dealing with Electronic Control Devices (ECD'S)

2. Policy:

- 2.1. The policy of this department is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in response to resistance events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.

3. Definitions:

- 3.1. **Active Resistance** – Any affirmative action taken by a subject to defeat the officer's ability to take custody or control.
- 3.2. **Data download** - Method of electronic recovery of information saved by the Electronic Control Device upon each deployment.
- 3.3. **Deadly Force** – Any force that is likely to cause serious bodily harm or death.

This document is the property of the Sioux Falls Police Department. Reprinting of this document is prohibited without permission from the Chief of Police.

- 3.4. **Electronic Control Device (ECD)** – Electronic Control Devices, TASER, or stun guns that disrupt the central nervous system.
- 3.5. **Imminent** – Impending or about to occur.
- 3.6. **Non-Deadly Force** – All uses of force other than those that is likely to cause serious bodily harm or death.
- 3.7. **Objectively Reasonable** – The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer using the force is presented.
- 3.8. **Passive Resistance** – No affirmative action or threat of affirmative action on the part of the subject to defeat the officer’s ability to take custody or control.
- 3.9. **Reasonable Belief** – Reasonable belief means that the person concerned, acting as a reasonable person believes that the prescribed facts exist.
- 3.10. **Serious Bodily Harm: (18 U.S.C. § 1365 (h) (3))** – The term "serious bodily injury" means bodily injury which involves
 - 3.10.1. a substantial risk of death;
 - 3.10.2. extreme physical pain;
 - 3.10.3. protracted and obvious disfigurement; or
 - 3.10.4. protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

4. Procedure:

- 4.1. In addition to compliance with this agency’s use of force (response to resistance) Policy #601, all deployments of an ECD as a response to resistance must comply with the provisions of this Electronic Control Device policy.
- 4.2. An ECD as a force option is the same level of force as chemical spray.
- 4.3. ECD’s must be worn on the weak side in a cross draw position in department issued holsters.
 - 4.3.1. Officers may utilize the black Safariland QLS, Model # QUICK-KIT, PART QUICK-KIT3-2 in conjunction with their issued Taser 7 holster.
- 4.4. Animal Control officers may wear their ECD’s on either the weak or strong side.
- 4.5. ECD’s shall be loaded with a 12 degree Close Quarters (CQ) cartridge in bay 1 and a 3.5 degree Stand off (SO) cartridge in bay 2. Tilt select may be used to switch between cartridges depending on the distance and situation. Two cartridges constitutes a set of probes. Specialty units may, at the discretion of their unit commander, load their

Taser with 3.5 degree SO cartridges in both bays during their unit activation. Members will return to the standard loadout upon completion of the activation.

- 4.6. Unless specifically authorized to do so Officers shall not carry a 2nd set of probes.
- 4.7. Officers shall place the battery from their ECD in one of the three download docks and replace it with a charged, battery once every 30-60 days or immediately if the battery is down to 25%. Officers shall not retain a battery in their ECD beyond 90 days no matter the battery percentage.
- 4.8. ECD deployment shall not be considered for the passively resistant subject. Active resistance or act of aggression shall be required for its use.
- 4.9. Flight from an officer alone is not a justification for the use of ECD. Officers should consider the nature of the offense suspected at the level of suspicion with respect to the person fleeing, and the risk of dangers to others if the person is not apprehended immediately. Additionally, officer should take into consideration the type of area, i.e. asphalt, railroad tracks, water, grass etc.
- 4.10. Officers must be trained concerning the ability of an electrical charge to act as an ignition for combustible materials.
- 4.11. Multiple ECD deployments against an individual may increase the likelihood of serious injury. Training should encourage officers to minimize the successive number of discharges against an individual where possible.
- 4.12. This agency recognizes however, particularly where back up officers are unavailable, that multiple active applications may be necessary to gain or maintain control of a combative individual.
- 4.13. No more than one officer should deploy an ECD against a single individual at the same time.
- 4.14. A drive stun with the Taser 7 may cause burns and is used for pain compliance, not incapacitation. Drive stuns may be used with the Taser 7, however, it should be used only when probe activation is not feasible.
- 4.15. The preferred target areas for probe shots are below the neck area for back shots and the lower center mass (below chest) for front shots. The preferred target areas increase the dart to heart distance and reduced cardiac risks. Back shots are preferable to front shots when practical.

- 4.16. When practical, avoid intentionally targeting the ECD on sensitive areas of the body such as the face, eyes, head, throat, chest area (area of the heart), breast, groin, genitals or known pre-existing injury areas.
- 4.17. Officers are prohibited from using the device as a punitive measure.
- 4.18. ECDs shall not be used against a person who is in physical control of a vehicle in motion unless deadly force would be justified based on an existing imminent threat.
- 4.19. 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)
- 4.20. When feasible, officers should notify other officers before deploying the device.
- 4.21. The ECD shall never be used on a handcuffed person to force compliance unless the subject is actively resistant and control cannot otherwise be accomplished.
- 4.22. Officers should consider the location and environment of the subject. i.e. Is the subject at the top of a stairwell such that when incapacitated by the ECD they fall down the stairs causing a collateral injury.
- 4.23. Officers should be aware that a subject's heavy clothing may impact the effectiveness of the ECD.
- 4.24. Officers should consider whether the subject has been exposed to combustible elements that may be on their person, such as gasoline. The use of ECD's on such a person may cause an ignition and fire.
 - 4.24.1. Activation of an ECD after deployment of a chemical spray is discouraged as not all chemical sprays are deemed non-flammable.
- 4.25. Officers should consider the particular subject and any vulnerability that they may have such as: the very young, the elderly, those small in stature or very frail who will be more dramatically impacted by the use of ECD.
 - 4.25.1. Officers who are aware that a female subject is pregnant shall not use the ECD unless deadly force would be justified. This is due to the danger created by the secondary impact or the possibility of muscle contractions leading to premature birth.
 - 4.25.2. Alternative tactics shall be utilized where the officer has prior information that the subject suffers from a disability or condition which would increase the

This document is the property of the Sioux Falls Police Department.
Reprinting of this document is prohibited without permission from the Chief of Police.

danger to the person by using an ECD. i.e. A person at the scene tells an officer that the subject has a heart condition.

- 4.26. In cases where the probes have penetrated a subject's skin and it's not in a sensitive area (see mandatory medical clearance at a hospital), removal of the probes may be done by the officer on scene. Deployed probes that have been removed from a suspect should be treated as a biohazard.
- 4.27. If EMS is present, their services may 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.
- 4.28. All persons who have been the subject of an ECD deployment shall be monitored for a period of time with a focus on symptoms of physical distress. If a person appears to be having any form of physical distress following the deployment of an ECD, EMS will be requested to the scene to assess the subject.
- 4.29. If a person has been the subject of an ECD deployment and does not fall under one of the mandatory clearance categories listed below, officers can immediately transport them to the MCSO jail. Officers shall continue to observe the subject from the time of deployment through transportation. Correctional personnel must be notified that the subject has been exposed to an ECD deployment.
- 4.30. Mandatory medical clearance at a hospital:
 - 4.30.1. Person struck in a sensitive area – face or head, genitals, female breast.
 - 4.30.2. Where the probes have penetrated the skin and officers cannot safely remove the darts in accord with this policy.
 - 4.30.3. Any person who appears to be having signs of unusual physical distress following the deployment of an ECD.
 - 4.30.4. Persons who fall into one of the vulnerable classes such as juveniles, pregnant women, persons who are small in stature, the elderly, and persons who officers become aware of having a pre-existing medical condition that increases danger.
 - 4.30.5. Subjects who specifically request medical assistance at a hospital.

5. Documentation

- 5.1. All deployments of an ECD shall be documented, including those cases where a subject complies once an officer points an ECD at a subject but does not deploy probes. If an ECD is maintained at the low ready position, either armed or in safe mode, a Blue Team is not required (unless the Taser "Arc" switch is activated in order to elicit compliance

This document is the property of the Sioux Falls Police Department.
Reprinting of this document is prohibited without permission from the Chief of Police.

from a subject, at which time a Use of Force ticket is required). By documenting the non-discharge uses our agency establishes officer judgment and control, as well as the deterrent effect of this tool.

- 5.2. Photographs of the affected area shall be taken following the removal of darts from the subject to document any injury. Where the drive stun method has been used, photographs are extremely important due to the increased potential for this method to cause scarring. Photographs will be taken of the deployed probes after being removed from the subject and prior to disposal.
- 5.3. All ECD usage by an officer will be documented as outlined in the Response to Resistance Reporting Requirements policy (602.4.1).
- 5.4. Supervisory personnel shall be notified and review all ECD deployments for consistency with policy and training as outlined in the Response to Resistance Reporting Requirements policy (602.4.2).
- 5.5. The ECD will be removed from service as soon as practical after an actual probe deployment or a drive stun was used, and will remain out of service until such time as the ECD battery is plugged into the download dock and the deployment report is downloaded from the ECD's battery.
- 5.6. Downloading will be done at the LEC or the SW substation by placing the involved ECD's battery in the download dock and leaving it to download.

6. Miscellaneous

- 6.1. Only those personnel specifically trained in their use will deploy ECDs.
- 6.2. Training in qualification with the ECD shall be conducted annually based on curriculum establish by the training section.
- 6.3. All ECD units will be audited quarterly to ensure that all deployment/activations have been reported as required.