

	<h2 style="margin: 0;">Horry County Police Department</h2> <h3 style="margin: 0;">General Order</h3>		
	<b>Subject:</b> Response to Active Resistance/Show of Force	<b>Number:</b> 16-2	<b>Distribution:</b> All Personnel
<b>Effective Date:</b> June 08, 2020	<b>Amends /Rescinds:</b> Previous Version (03/26/2020)	<b>Pages:</b> 1 of 9	<b>Re-evaluation:</b>
<b>References:</b> SCLEA 1.9; 1.10; 1.11; 1.12; 1.13; 1.14.A-D; 1.15		<b>Notes:</b>	

**I. PURPOSE**

The purpose of this directive is to establish guidelines and procedures for the use of force by authorized department members, reporting response to active resistance or show of force incidents, and the process used to review physical, less-lethal and lethal force.

**II. POLICY**

The Horry County Police Department (HCPD) authorizes members to respond to active resistance when and to the extent it is objectively reasonable to obtain lawful objectives and in defense of themselves or others. (SCLEA 1.9)

**III. DUTY TO INTERCEDE**

Any officer present and observing another officer responding to active resistance or performing a show of force that is clearly beyond that which is objectively reasonable under the circumstances will, when in a position to do so, intercede to stop the unreasonable response to active resistance **in order to prevent unnecessary injury**. An officer who observes another officer or employee respond to active resistance or perform a show of force that exceeds the degree of force permitted by law will promptly report these observations to a supervisor.

**IV. DEFINITIONS**

*Active Resistance:* Any action by a subject that displays an intent to avoid apprehension or detention or flee, after the intent to detain or arrest has been communicated.

*Aggravated Resistance:* An aggressive act by a subject, after the intent to detain or arrest has been communicated, displaying an intent to harm the officer.

*Blue Team*<sup>®</sup>: a paperless documentation system to capture and manage critical incident data and personnel performance.

*De-escalation:* Tactics which decrease the intensity or magnitude of a threat of force. Also, to decrease in the intensity or magnitude of a response to active force as the level of resistance reduces.

*Response to Active Resistance:* The use of physical techniques, tactics, chemical agents, or authorized weapons in order to stop potential injury or death of another person or to effect a lawful detention. It is not a “response to active resistance” when a person allows themselves to be searched, escorted, handcuffed or restrained.

*Passive Resistance:* A lack of physical cooperation by a subject during an arrest or detention, after the intent to detain or arrest has been communicated and subject is not trying to assault the arresting/detaining officer or escape.

*Show of Force:* Drawing **and** pointing an authorized firearm at another person without discharging the weapon.

*Verbal Resistance:* A word or words used by a subject to communicate an intent to resist an arrest or detention, after the intent to detain or arrest has been communicated.

*Weapon:* A firearm, Conducted Electrical Weapon (CEW), or any other authorized item used to inflict bodily harm, physical damage, or pain to a person.

## V. PROCEDURES

### A. REASONABLENESS OF FORCE

1. The reasonableness of force used will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.
2. Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate response to active resistance in each incident. Officers will adhere to the standards established by current law and court rulings.
3. Officers are authorized to use the weapons issued to them by the HCPD, deadly or less lethal, in accordance with their training and current certification training for that weapon. Additional information on weapons may be found in the respective weapons policy. **(SCLEA 1.12)**
4. It is also recognized that circumstances can arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the HCPD. Officers may find it more effective or reasonable to improvise their response to the rapidly evolving conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.
5. While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.
6. Warning Shots - the intentional discharge of a firearm to warn or to stop an individual in order to control a situation, are prohibited. **(SCLEA 1.11)**

### B. RESPONSE TO ACTIVE RESISTANCE/SHOW OF FORCE TO AFFECT AN ARREST/DETENTION

An officer is justified in using response to active resistance tactics or a show of force against another if required, in making or assisting in making an arrest or detention or in preventing or assisting in preventing an escape after arrest or detention, when such person uses or threatens to use physical force/active resistance and the following exists:

- a. A reasonable person would believe that such response to active resistance is immediately necessary to effect the arrest or detention or prevent the escape; and
- b. The officer makes known, the purpose of the arrest or detention or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested or detained; and
- c. A reasonable person would believe the arrest or detention to be lawful.
- d. **Absent justified deadly force situations, the HCPD prohibits the application of all physical restraint maneuvers that restrict the flow of blood or oxygen to the brain.**

C. ADDITIONAL FACTORS TO DETERMINE REASONABLENESS

1. When determining whether to apply a response to active resistance or a show of force and in evaluating whether an officer has responded appropriately, a number of factors may be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:
  - a. Immediacy and severity of the threat to officers or others.
  - b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
  - c. Physical factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of officers available vs. subjects).
  - d. The effects of drugs or alcohol.
  - e. Subject's mental state or capacity.
  - f. Proximity of weapons or dangerous improvised devices.
  - g. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
  - h. The availability of other options and their possible effectiveness.
  - i. Seriousness of the suspected offense or reason for contact with the individual.
  - j. Training and experience of the officer.
  - k. Potential for injury to officers, suspects and others.
  - l. Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
  - m. The risk and reasonably foreseeable consequences of escape.
  - n. The apparent need for immediate control of the subject or a prompt resolution of the situation.
  - o. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
  - p. Prior contacts with the subject or awareness of any propensity for violence.
  - q. Any other exigent circumstances.
  - r. Such force must be reasonable based on the totality of circumstances.
  - s. Handcuffed/Restrained Persons: Employees will not strike, use impact weapons, chemical weapons, Taser, or use deadly force on persons who are restrained, by hand, foot, leg, unless such force is objectively reasonable.

D. PAIN COMPLIANCE TECHNIQUES

1. Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers will only apply those pain compliance techniques for which they have successfully and currently completed training approved by the HCPD or the South Carolina Criminal Justice Academy. Officers

utilizing any pain compliance technique will consider:

- a. The degree to which the application of the technique will be controlled given the level of active resistance;
  - b. Whether the person can comply with the direction or orders of the officer; and
  - c. Whether the person has been given sufficient opportunity to comply.
2. The application of any pain compliance technique will be discontinued once the officer determines that compliance has been achieved.

**E. DEADLY FORCE APPLICATIONS (SCLEA 1.10)**

1. Use of deadly force is justified in the following circumstances:
  - a. An officer may use deadly force to protect themselves or others from what they reasonably believe would be an imminent threat of death or serious bodily injury.
  - b. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed or intends to commit a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer has probable cause to believe that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended.
  - c. Under such circumstances, a verbal warning will precede the use of deadly force, where feasible.
2. Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:
  - a. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
  - b. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

**F. SHOOTING AT OR FROM MOVING VEHICLES**

1. Officers will not discharge their issued firearm at any part of a vehicle in an attempt to disable the vehicle, unless they are justified in using deadly force and no other reasonable means exists to stop the threat.
2. Employees will not discharge a firearm from a moving vehicle, unless they are justified in using deadly force and no other reasonable means exists to stop the threat.
3. Officers will not deliberately place themselves in the path of a moving vehicle or one capable of immediate movement. This is not intended to prevent officers from moving in front of or around vehicles during the execution of routine traffic duties, such as directing traffic.
4. Officers are reminded of the serious risks involved in reaching in or leaning into a running vehicle with an occupied driver's seat. Exigent circumstances must exist before an officer reaches or leans into a running vehicle with an occupied driver's seat.

**G. DE-ESCALATION OF RESPONSE TO ACTIVE RESISTANCE**

1. Members will exercise de-escalation of response to active resistance techniques only when safe to do so.

- a. De-escalation techniques include; taking action or communicating verbally or non-verbally during a potential response to active resistance encounter in an attempt to stabilize the situation, reduce the threat so that more time, options, and resources can be called upon to resolve the situation without the use of response to active resistance tactics or a reduction in the level of response to active resistance necessary.
2. During the course of an incident, if the level of threat reduces, members will adjust to decrease their response to active resistance accordingly.

#### H. MEDICAL CONSIDERATIONS (SCLEA 1.13)

1. Medical assistance will be obtained as soon as possible and prior to booking or release for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter will be continuously monitored until they can be medically assessed.
2. Medical assistance will be sought at the nearest hospital emergency room or, if the nature of the injury allows and circumstances apply, at a hospital emergency room near the route traveled to the place of detention. If any such individual refuses medical attention, the officer will obtain a copy of the refusal in writing and retain it with the corresponding incident report in the HCPD Reports Management System (RMS).
3. If a recording is made of the contact or an interview with the individual, any refusal will be included in the recording, if possible. The on-scene supervisor, or if not available, the primary handling officer will ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification will include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).
4. Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called excited delirium), or who require a protracted physical encounter with multiple officers to be brought under control, can be at an increased risk of sudden death. Calls involving these persons will be considered medical emergencies. Officers who reasonably suspect a medical emergency will request medical assistance as soon as practical and have medical personnel stage away if appropriate.

#### I. REPORTABLE RESPONSE TO ACTIVE RESISTANCE/SHOW OF FORCE INCIDENTS (SCLEA 1.14)

1. Any officer using a Response to Active Resistance or a Show of Force to control, detain or arrest an individual, will utilize Blue Team<sup>®</sup> to document that Response to Active Resistance promptly, completely and accurately in a corresponding incident report and in a Response to Active Resistance Report, including but not limited to:
  - a. Any intentional, unintentional or accidental discharge of a firearm by a member of this department, at other than a training or recreational shooting event; **(SCLEA 1.14.A)**
  - b. A physical action or force that results in the injury, complaint of injury, or death of a person; or **(SCLEA 1.14.B)**
  - c. The actual application or discharge of any weapon, lethal or less-lethal, whether issued by the Department or not. **(SCLEA 1.14.C)**
  - d. The pointing and presenting of an authorized firearm at another person.

- 1) Members of the Special Weapons and Tactics Team actively engaged in a Special Operations Division deployment are exempt as they will document Show of Force events in a *Critical Incident After Action Report*.
2. Incident reports requiring Response to Active Resistance documentation are due by the end of the shift in which the incident took place unless otherwise. The officer will articulate the factors perceived and why they believed the Response to Active Resistance/Show of Force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the HCPD will require the completion of additional report forms, as specified in department policy, procedure, law, or where a supervisor deems it necessary.
3. Any officer involved in an officer involved shooting whether contact was made or not and/or any traumatic or critical event that results in the death of an officer or suspect, or serious bodily injury can refer to HCPD General Orders: *4-11 Line of Duty Deaths*, and *16-6 Lethal Force Incidents* as applicable for additional guidance.

#### J. NOTIFICATION OF A SUPERVISOR

1. Officers will notify a supervisor as soon as practical following the application of force in any of the following circumstances:
  - a. The application caused a visible injury.
  - b. The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
  - c. The individual subjected to the force complained of injury or continuing pain.
  - d. The individual indicates intent to pursue litigation.
  - e. The discharge of a firearm.
  - f. Any application of a CEW device.
  - g. Any application of a restraint device other than handcuffs.
  - h. The individual subjected to the force was rendered unconscious for any amount of time.
  - i. An individual was struck or kicked.
  - j. An individual alleges any of the above has occurred.
  - k. A chemical spray agent (Oleoresin Capsicum [OC]) has been utilized
  - l. Patrol Canine application
  - m. Deadly force has been utilized
  - n. Any reportable Show of Force event

#### K. SUPERVISOR RESPONSIBILITIES

1. The on-duty supervisor will respond to the scene of an incident in which there has been a reportable Response to Active Resistance in order to:

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
  - b. Ensure that any injured parties are examined and treated as needed.
  - c. When possible, separately interview the subject upon whom the Response to Active Resistance was applied. If this interview is conducted without the person having voluntarily waived their *Miranda* rights, the following will apply:
    - 1) The content of the interview will not be summarized or included in any related criminal charges.
    - 2) The fact that a recorded interview was conducted will be documented in a property or other report as required.
    - 3) The recording of the interview will be distinctly marked for retention.
  - d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs will be retained within the case file.
  - e. Identify and interview any witnesses not already included in related reports.
  - f. Complete a supplemental report regarding investigation.
  - g. Review and approve or disapprove all related reports and videos as appropriate.
  - h. Determine if there is any indication that the subject may pursue civil litigation, the supervisor will complete and route a notification of a potential claim through the chain of command to their respective Bureau Commander.
  - i. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation is appropriate.
2. In the event that unforeseeable circumstances prevent a supervisor from responding to the scene of an incident involving the reported application of response to active resistance, the supervisor is still expected to complete as many of the above items as circumstances permit.

#### L. SUPERVISORY REVIEW OF REPORTS

1. Because issues with response to active resistance/show of force must be identified and resolved in a timely manner, supervisors within the workflow are directed to conduct reviews and forward the reports to the next person in the process promptly.
2. The shift supervisor will review the incident and *Response to Active Resistance/Show of Force Reports* for compliance with policy, procedures and law, and then forward the reports to the Deputy Division Commander, along with any supporting documentation, statements, photographs, or reports of investigation by the end of the shift in which that incident occurred.
  - a. The Training Section and the Office of Professional Standards (OPS) will complete the review. The shift supervisor will manage officer safety issues and reporting issues. Items requiring major correction will be addressed by the Deputy Commander, Training Section and OPS.
  - b. The OPS will forward the results to the Chief of Police. If immediate corrective action is taken, an accompanying report detailing the reason for the corrective action and the corrective action taken will be completed, attached, and forwarded through the reviewing chain.
  - c. The Chief of Police reserves the ultimate authority in any administrative actions of personnel as a result of response to active resistance/show of force incidents.

3. Response to active resistance/show of force incidents will be reviewed as follows:
  - a. The Deputy Division Commander will review all such reports for policy, training, weapon and equipment function and use, which require addressing, and be responsible for the delivery of all *Response to Active Resistance Reports* to the Training Section Commander for review.
  - b. The Training Section Commander will review all such reports for policy, training, weapon and equipment function and use which require addressing, and be responsible for the delivery of all *Response to Active Resistance Reports* to the OPS for administrative review.
  - c. The OPS will review all reports for adherence to policy and law and make appropriate notifications or recommendations to the Chief of Police as necessary.
  - d. If deemed necessary, the Chief of Police will direct the OPS to conduct a comprehensive investigation of the incident.
  - e. In January of each year, the OPS will conduct an annual analysis of all Response to Active Resistance/Show of Force incidents in the previous calendar year to reveal patterns or trends that indicate training needs or policy modifications. This analysis will be forwarded to the Chief of Police, a copy will be forwarded to the Accreditation Manager, and a copy will be retained by the OPS as needed.
  - f. The OPS will retain all *Response to Active Resistance Reports* or other pertinent documentation and any resulting action or investigation as required by law.

M. REMOVAL FROM ON-DUTY STATUS (Refer to HCPD General Order 16-6 *Lethal Force Incidents*)  
**(SCLEA 1.15)**

1. The Chief of Police will place any employee on administrative leave, with or without pay, whose actions or response to active resistance results in a death or serious physical injury, pending an administrative review of the incident.
2. In the absence of the Chief of Police, a Deputy Chief, or the respective Division Commander will place an employee on administrative leave, with or without pay, whose actions or response to active resistance results in a death or serious physical injury, pending an administrative review of the incident.
3. Any employee may be placed on administrative leave if it appears that a critical or traumatic incident has affected the employee's ability to effectively perform their duties. A supervisor will provide the employee information regarding the Horry County, Employee Assistance Program.
4. The supervisor or commanding officer will privately inform the employee of their removal from duty pending an administrative review of the incident.
5. If an officer is placed on administrative leave, the officer will surrender their issued weapon and ammunition to the on-duty supervisor or commanding officer as soon as practical away from the scene of the incident.
6. The supervisor or commanding officer will treat the weapon and ammunition as evidence and place it into the evidence room for investigative and safekeeping purposes, as soon as practical.
7. The Chief of Police or designee will notify the affected officer, in a Personnel Order, of the administrative leave status and any temporary transfer or reassignment that is required as a result of the incident.
8. The involved officer may be required to, or may voluntarily, attend counseling with a certified mental health provider to ascertain the officer's fitness for duty.

9. All disciplinary action resulting from response to active resistance/show of force violations will be at the discretion of the Chief of Police.

N. Destroying Severely Injured/Dangerous Animals

1. Officers may use an issued firearm to humanly destroy severely injured, vicious, or suspected rabid animals which are actively menacing persons or other domestic animals provided other safe and reasonable means of apprehension are not available or feasible.
2. Officers will brief and obtain the authorization of a shift supervisor prior to destroying an animal unless officer safety or the safety of others is at immediate risk.
3. Officers will ensure the complete safety of other persons and property when humanly destroying an animal.
4. Domestic animals are personal property of another and in instances where feasible, a written request or waiver for the destruction of the animal will be obtained if possible, and maintained as a part of the case file.
5. Officers will make an effort to determine ownership of any domestic animal when owners are not on the scene of the initial incident.
6. In all such cases, the officer(s) involved will document the incident by completing an "Animal Destruction" report in Blue Team<sup>®</sup>.

**By Order of:**

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**Joseph R. Hill, Chief of Police**

**Date: 06/08/2020**

**(Copy on PowerDMS<sup>®</sup> is Signed Electronically)**