

## 246.00 Response to Resistance or Aggression

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### I. POLICY

The Saint Paul Police Department protects people, their property, and their rights by providing trusted service with respect every day without exception - including during encounters that require the use of force to respond to resistance or aggression. Although officers seek to resolve encounters without force whenever possible, as guardians of public safety and welfare, there are times when officers are called upon to use force to keep others, or themselves, safe. In those times, officers are mindful that they derive their authority from the community and that unreasonable force degrades the legitimacy of that authority and the public trust. This policy guides officers to use the minimum amount of force that is reasonable and necessary to achieve a lawful objective. Officers are directed to de-escalate when they can, intervene when they should, and serve all individuals with respect. Regardless of the circumstances, officers will see the value of every person they serve and honor their human and civil rights.

### II. DEFINITIONS:

- A. **Aerosol Subject Restraint (ASR) / Aerko Freeze + P** – A non-lethal agent that causes temporary inflammation of the skin, eyes and mucus membranes.
- B. **Annual training** – Annual in-service training provided by the department to all department peace officers.
- C. **Approved Weapons** – Tools meeting department specifications for which officers receive proficiency and safety training. Prior to the use of any approved weapon, the officer, when practical, will communicate to the resisting or aggressive person that the use of the weapon is imminent, and clearly and audibly announce the same to all personnel in the immediate area, unless circumstances prevent this from occurring.
- D. **Bodily Harm:** Physical pain or injury

- E. **Cuffing Under Power** – A method where a secondary officer handcuffs a subject while the electronic control device (ECD) is being deployed by the primary officer and the subject is in Neuro-Muscular Incapacitation (NMI).
- F. **Deadly Force** – Defined by Minnesota Statute 609.066, Subd. 1: “Force which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing, death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.”
- G. **Defensive Skills Training** – Training provided to officers on defensive skills and tactics to Respond to Resistance or Aggression.
- H. **De-escalation** – Officer response to stabilize an encounter so that more time, options, and resources are available for incident resolution, in order to reduce the immediacy of a threat, gain cooperation when feasible, and to lower the likelihood of the use of force. De-escalation may include the use of such techniques as command presence, advisements, warnings, and verbal persuasion.
- I. **Documentation** – Includes incident reports and use-of-force reports, and where applicable recorded interviews, digital media (ICC, BWC, CCTV, Etc.), and other records.
- J. **Electronic Control Device (ECD)** – The ECD is a Neuro-Muscular Incapacitation (NMI) device that stimulates the motor neurons to cause temporary motor skill dysfunction.
- K. **Force Transitions** – The movement, including escalation and de-escalation, from the application of one type of response to resistance or aggression to another. Officers must consider the facts and circumstance known or believed at the time of their action to reasonably respond to an individual’s resistance or aggression.
- L. **Great Bodily Harm** – Defined by Minnesota Statutes section 609.02, subdivision 8: “Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.”
- M. **Hard Empty Hand Tactic** – Weaponless techniques that include strikes, knees, kicks, and takedowns; and which are considered intermediate force options that have a potential to cause injury or substantial pain.
- N. **Impact Weapon** – An instrumentality used to apply physical force to another person.
- O. **Imminent Threat** – Refers to an impending violent act or active resistance that an officer reasonably believes will occur, based on the totality of the circumstances.

- P. **Intermediate Force** – A level of force that has the potential to cause injury or substantial pain, and is greater than low-level force.
- Q. **Less-Lethal Force** – Any force option that a reasonably trained police officer should know is reasonably likely to create a risk of causing bodily harm, but does not automatically create a substantial risk of death or great bodily harm.
- R. **Levels of Control** – Levels of Control are broad categories of influence and/or force in identifiable, escalating stages of intensity. They are identified as low-level force, intermediate force, and deadly force.
- S. **Less-lethal Impact Munitions (LLIMs)** – A specialty platform that launches specialty less-lethal munitions to interrupt aggressive or aggravated aggressive behavior.
- T. **Low-Level Force** – A level of force or control that is neither likely nor intended to cause injury.
- U. **PepperBall** – A non-lethal delivery system that uses high-pressure air (NO<sub>2</sub> or CO<sub>2</sub> cartridges) from limited capacity magazines to deliver PAVA OC powder projectiles from a safe distance.
- V. **Pre-Assault Indicators** – Before a physical attack occurs, an aggressive subject typically threatens an attack by displaying involuntary physiological behaviors that project when they are in fight or flight mode. While these are not exclusive, they may include non-verbal cues such as taking a bladed/fighting stance, fist clenching/pumping, posturing, trembling, adjusting clothing, and shallow rapid breathing, avoiding eye contact, and focused attention. A person may also make verbal indicators of an attack such as angry tones, changes in pitch and cadence, partial responses, and direct verbal threats.
- V. **Reasonable Grounds/Belief** – Facts and circumstances, known or reasonably believed by the officer at the time of a decision, which would cause an ordinary and prudent officer to act or think in a similar way under like circumstances.
- W. **Reasonably Necessary Force** – The amount of physical force that a reasonable officer would believe is necessary to resolve the encounter based on the facts and circumstances known, or which should reasonably be known, at the time of the incident.
- X. **Response to Resistance or Aggression (RRA)** – An officer's response to an individual's resistance to an officer's performance of duties, or aggression or threat of aggression against an officer or another person.
- Y. **Restraint** – A mechanical or physical means for limiting an individual's freedom of movement.
- Z. **Soft Empty Hand Tactic** – Weaponless techniques that include escort holds, controlled handcuffing, and takedowns; and which are considered low-level force options that are neither likely nor intended to cause injury.

- AA. **Totality of the Circumstances** – A set of circumstances and articulable facts.
- BB. **Use-of-Force Report** – An officer’s report documenting their response to resistance or aggression.
- CC. **Weapon of Choice** – Any department weapon that the officer has received permission to carry and use in the course of official police duties.
- DD. **Weapon of Opportunity** – Any object, instrumentality, or device that is not a department weapon, which an officer may deem under the circumstances reasonably necessary to use for the purpose of applying physical force to another.

### III. DETERMINING OBJECTIVELY REASONABLE FORCE

The Fourth Amendment prohibits any use of force by peace officers in the line of duty that is not objectively reasonable under the totality of the known or reasonably believed circumstances. The reasonableness of a particular use of force is judged from the perspective of a reasonable officer on the scene, rather than with 20/20 vision of hindsight, and must account for the fact that officers must make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving.

Courts review an officer’s use of force based on the objective facts or circumstances of an incident, rather than an officer’s subjective or personal intent. The officer’s perception will be considered, along with other factors to determine whether the force used was reasonable. These factors may include but are not limited to:

1. Severity of the crime(s) at issue
2. Whether the person(s) poses an immediate threat to the safety of the officer(s) or others
3. Whether the person(s) is actively resisting arrest or attempting to evade arrest by flight
4. Relative age, size, strength, and physical capability of the officer compared to the person
5. Influence of drugs/alcohol
6. The mental capacity of the person
7. Time available to an officer to make a decision
8. Availability of officers/resources to de-escalate the situation
9. Proximity or access of weapons to the person
10. Environmental factors; and/or other exigent circumstances

Under these General Orders, when officers are called upon to use force to respond to an individual’s resistance or aggression, officers must assess each incident to determine, based on policy, applicable training and experience, how to resolve the situation in a manner that is reasonable, necessary, and performed with respect.

In any response, including responses to individuals in crisis, officers should be mindful of any known or reasonably believed barriers to cooperation such as perception barriers, mental or

emotional capacity, and language barriers. Officers must follow General Order 403.00 for responding to persons in crisis.

#### **IV. MEDICAL ATTENTION**

##### Medic response required if injury or complaint of injury

Whenever an officer uses force on a person that results in a visible injury or a complaint of injury, responding officers and supervisors must assess the need for immediate medical attention. If immediate medical attention is deemed necessary, officers at the scene (or a supervisor if present) must summon medics as soon as it is safe to do so.

##### Mandatory medic response

Emergency medical responders must be called when officers use any of the following responses to resistance or aggression, regardless of whether there is a visible injury or a complaint of injury:

1. Baton/Impact Tools – All strikes
2. ASR – If the individual shows signs/symptoms of an adverse reaction
3. PepperBall – If the individual shows signs/symptoms of an adverse reaction
4. Less-lethal Impact Munitions (LLIMS) – Impact
5. ECD – Probe impact to a person's head, neck or groin area
6. Canine – Any suspected injury resulting from physical contact between a canine and a person
7. Any suspected injury caused by a department vehicle
8. Firearms – All firearms and specialty weapons (see General Order 246.02 VIII for specialty weapons)

The preferred method of transportation for medical evaluation or treatment is by emergency medical services. However, this policy does not prohibit an officer from transporting an individual if it increases the likelihood of survival based on the nature of injury, estimated time for medical personnel to respond, and proximity of the medical facility.

##### Duty to render aid

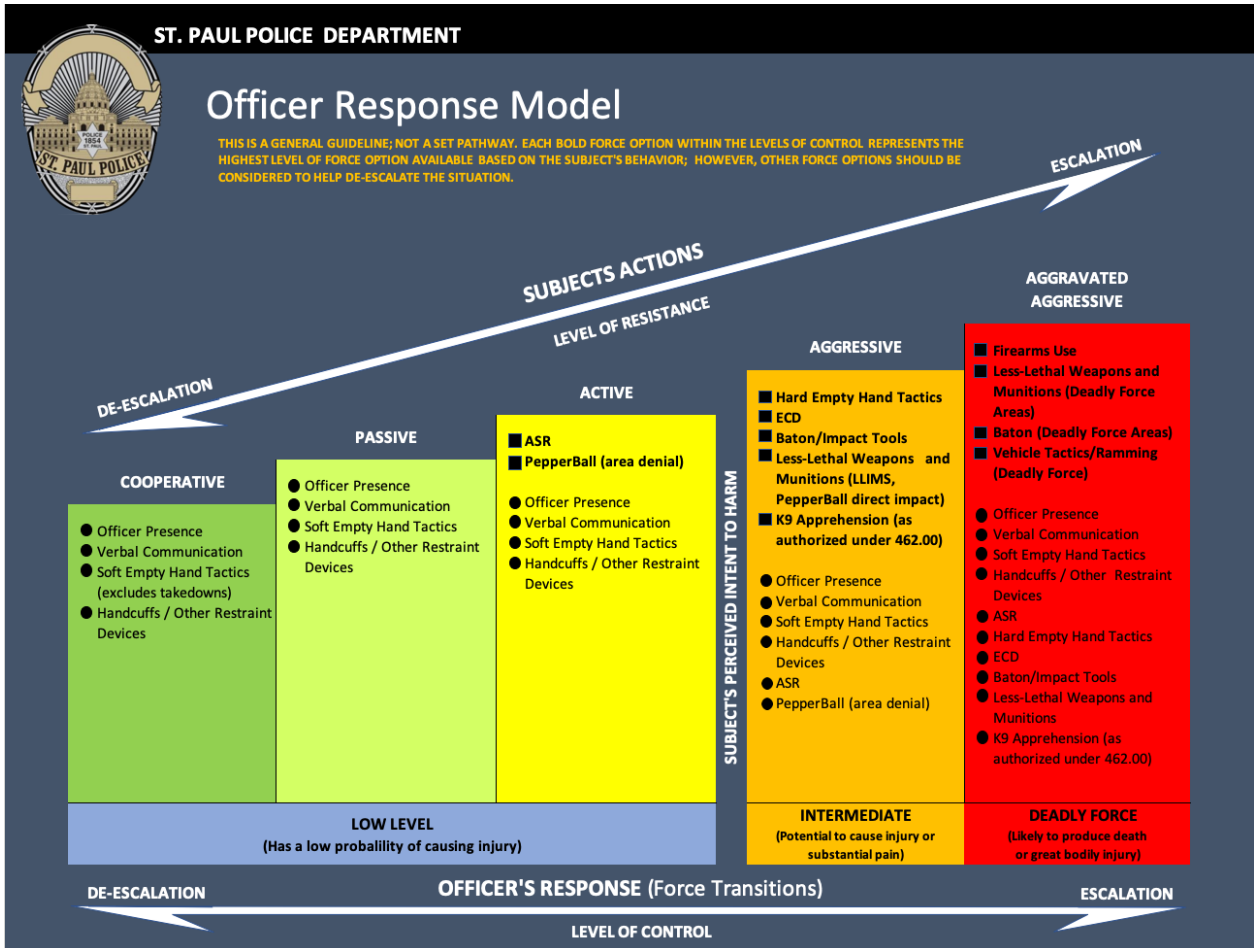
Whenever an officer uses force on a person that results in a known or reasonably believed serious or life-threatening injury, officers who are in a position to do so safely must immediately begin rendering comfort and aid to the extent of their ability to the injured person while waiting for medics to arrive.

#### **V. RESPONSE TO RESISTANCE OR AGGRESSION MODEL**

This visualization provides a general guideline for officers to determine an appropriate response to a person's resistance or aggression. This model is not a set pathway and does not require officers to start with the lowest force option. Each situation will require a different level of response based on a subject's resistance or aggressive behavior. The subject's actions will dictate the level of force that is objectively reasonable under the circumstances. These encounters are dynamic and fluid and require an officer to continually assess a subject's actions to ensure that their response is objectively reasonable.

Each bold face option indicated with a square (■) within the options for an officer's response

represents the highest level of force authorized under these General Orders based on the subject's conduct; however, other force options outlined in this policy, including lower force options if appropriate, should be considered to help de-escalate the situation. Lower force options are also included in each column indicated with a circle (●).



See general order 462.00 for requirements and regulations regarding responses to resistance or aggression involving police canines.

## VI. LEVELS OF RESISTANCE OR AGGRESSION

- A. **Cooperative** – A person contacted by an officer who acknowledges direction or lawful orders and offers no passive, active, aggressive, or aggravated aggressive resistance. A person who is cooperative is not resisting.
- B. **Passive Resistance** – The person is not complying with an officer's commands and is uncooperative, but is taking only minimal physical action to prevent an officer from placing them in custody and rendering the situation safe. Examples include: standing stationary and not moving upon lawful direction, falling limply and refusing to use their own power to move (becoming "dead weight").
- C. **Active Resistance** – The person's verbal or physical actions are intended to prevent an officer from placing them in custody and rendering the situation safe, but are not directed

at harming the officer. Examples include: walking or running away, breaking the officer's grip, spitting. Verbal arguing alone does not constitute active resistance.

----- **OFFICER'S PERCEPTION OF PERSON'S INTENT TO HARM**-----

- D. **Aggressive Resistance** – The person displays by their behavior the (perceived) intent to harm the officer, themselves or another person and prevent an officer from placing them in custody and rendering the situation safe. The aggression may manifest itself through a person threatening an officer or another person with physical harm, taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions that present an imminent threat of physical harm to the officer or another.
- E. **Aggravated Aggressive Resistance** – The person's actions are likely to result in death or serious bodily harm to the officer, themselves or another. These actions may include using or threatening to use a firearm, use of blunt or bladed weapon, or extreme physical force.

## VII. LEVELS OF CONTROL

When officers are called upon to respond to resistance or aggression, officers will assess each incident to determine based on policy, training, and experience, which response to a person's resistance or aggression is believed to be objectively reasonable for the situation.

**Low-Level Force** – Low-level force is a level of force or control that is neither likely nor intended to cause injury, such as restraining, controlling, or handcuffing any person for a lawful purpose.

This level of force includes:

1. Officer presence
2. Verbal communication
3. Soft empty hand tactics (escorts, forced handcuffing, takedowns with low potential of injury)
4. Handcuffs/other department-approved restraint devices
5. ASR / chemical aerosol spray
6. PepperBall (area denial)
7. Weapon pointing (ECD, PepperBall, LLIMS, less lethal, firearms)

- A. **Intermediate Force** – A level of force that has the potential to cause injury or substantial pain, and is greater than Low-Level Force.

This level of force includes:

1. Hard empty hand tactics (strikes, kicks, takedowns that may cause potential injury)
2. Baton/impact tools (jabs, strikes)
3. ECD
4. Less-lethal weapons and munitions direct impact (LLIMs and PepperBall)
5. Canine apprehension

- B. **Deadly Force** – Deadly force is that degree of force that is likely to produce death or great bodily harm. Deadly force can also result from a force option being improperly applied the use of deadly force in the line of duty is justified only if an objectively reasonable officer would believe, based upon the totality of the circumstances known

to the officer at the time and without the benefit of hindsight, that such force is reasonably necessary. When reasonable and safe to do so, lesser force alternatives should be considered and exhausted prior to the use of deadly force.

Examples of deadly force include but are not limited to:

1. Baton (deadly force areas)
2. Less-lethal weapons and munitions (deadly force areas)
3. Vehicle ramming/tactics
4. Firearm

Parameters for Use of Deadly Force (MN State Statute 609.066, subd. 2)

**Under Minnesota state statute** an officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;

- a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
    - i. can be articulated with specificity by the law enforcement officer;
    - ii. is reasonably likely to occur absent action by the law enforcement officer; and
    - iii. must be addressed through the use of deadly force without unreasonable delay; or
  - b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
2. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).
  3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

To evaluate these situations, officers should consider the elements of deadly force situations:

1. **Ability** - Ability exists when a person has the means or capability to cause grave injury, serious bodily harm or death to an officer or another. This may include, but is not limited to the person's physical ability, size, age, strength, combative



- skill, level of aggression, and any weapons in their immediate control.
2. **Opportunity** - Opportunity exists when a person is in a position to effectively resist an officer's control or to use force or violence upon the officer or another. Examples that may affect opportunity include relative distance to the officer or others, and physical barriers between the subject and the officer.
  3. **Imminent Jeopardy** - Based upon all the facts and circumstances' confronting the officer, the officer reasonably believes the individual poses an imminent threat to the life of the officer(s) or others and the officer must act immediately to prevent death or serious bodily injury.

## VIII. VIOLATIONS OF THIS POLICY

All personnel must comply with the standards established under this policy. Pursuant to General Order 020.00, all existing manuals, orders, and regulations that are in conflict with this General Order are revoked.

To hold ourselves accountable to these standards, officers will be subject to discipline for violations of General Orders 246.00 to 246.09 as of the effective date of this policy that is not limited or directed to a specific level of discipline based on any prior policy or training, practices, standards, incidents, or decisions.

*Revised December 16, 2020*