



GENERAL ORDER

OAK BROOK POLICE DEPARTMENT

OAK BROOK, ILLINOIS

Title: INVESTIGATING RESPONSE TO RESISTANCE		Number: FOR-501
Author: Chief James R. Kruger Jr.		Page: 1 of 8
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501.1 Policy

It is the policy of the Oak Brook Police Department to respond to incidents of response to resistance in a manner intended to preserve any evidence of the event, maintain the integrity of the department, and protect the constitutional rights of both the subject and the department member(s) involved. The Oak Brook Police Department will fully investigate any instance of force used by a member of the department towards another human being.

501.2 Purpose

The purpose of this policy is to establish the protocol and procedure in reporting and investigating all incidents of force by members of the department.

501.3 Definitions

Physical Force: Actual contact with a subject beyond that which is generally utilized to make an arrest or achieve a law enforcement objective.

Mechanical Force: Mechanical force involves the application of a device or substance, other than a firearm, to make an arrest or achieve a law enforcement objective.

Deadly Force: Any use of force that is likely to cause death or great bodily harm or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious physical injury. Examples of those acts as specified in the Illinois Compiled Statutes, 720 ILCS 5/7-8, are as follows:

- a. "The firing of a firearm in the direction of a person to be arrested, even though no intent exists to kill or inflict great bodily harm; and

b. "The firing of a firearm at a vehicle in which the person to be arrested is riding."

Non-Deadly Force: Any use of force other than that which is considered deadly force

Serious Physical Injury/Great Bodily Harm: A bodily injury that creates a substantial risk of death, causes permanent disfigurement, or results in long-term loss or impairment of the function of a bodily member or organ.

Reasonable Belief: The facts and circumstances known to the Officer which are such as to cause an ordinary and prudent person with the knowledge, training and experience of a Police Officer to act or think in a similar manner under similar circumstances.

Active Pointing: The actual pointing of a firearm or mechanical force option at another person to gain compliance or affect a lawful arrest. The act of un-holstering or carrying a firearm for the purpose of conducting a building search or providing general security is not considered active pointing.

High Level Use of Force: The discharge of a firearm as a force response or any use of force that results in death, great bodily harm or the extended hospitalization of any person, regardless of whether the person harmed was the intended recipient of the force.

501.4 Reporting Use of Force Incidents

If physically able, the department member involved shall immediately report the incident to the on-duty Supervisor.

An Incident Report, to include all applicable supplemental reports, and the Response to Resistance Report Form (Attachment A) must be completed whenever a department member:

1.3.6d

a. Applies physical force

1.3.6c

b. Applies mechanical force

1.3.6b

c. Uses force that results in or is alleged to have resulted in the injury or death of another

d. Actively points a firearm or mechanical force option at another person

e. Uses deadly force

f. Is directed to do so by a Supervisor

501.5 Response to Resistance Report Form

The purpose of the Response to Resistance Report Form is to provide internal department review for policy, safety and training considerations, to identify trends, etc.

The Response to Resistance Report Form will be used to help identify and track trends, improve training and department member safety and to provide timely information when addressing use of force issues with the public.

The form does not need to be used when performing functions such as simple handcuffing, gripping or holding.

501.6 Supervisor Responsibilities

In instances where force was used but did not result in serious physical injury or death, the Incident Report and Response to Resistance Report Form shall be completed and submitted by the department member involved in the use of force incident prior to the end of their shift or as directed by their Supervisor.

- a. The Incident Report will contain the pertinent information including all department member/subject factors.
- b. The Supervisor shall ensure that all written reports covering incidents of physical force, use of mechanical force, active pointing of a firearm or mechanical force option at another person or incidents resulting in injury are submitted to the Chief of Police or designee through the chain of command for administrative review.
- c. The Supervisor shall ensure a completed copy of the Response to Resistance Report Form is forwarded to the Support Services Division Commander.

In instances where force was used but did not result in serious physical injury or death, the on-duty Supervisor will conduct an initial review of the incident and make a recommendation as to whether the force used was necessary and objectively reasonable. The review, in memo form, will be forwarded to the Chief of Police through the chain of command.

- a. The Chief of Police may assign the Deputy Chief or Division Commander to oversee an internal investigation of the incident.

The Deputy Chief or Division Commander will report the result of the internal investigation to the Chief of Police.

501.7 High Level Use of Force

In the event of a high level use of force incident, the department member:

- a. Shall immediately advise communications of their location and request the response of additional assistance (i.e. police and medical personnel).
- b. Shall, in an effort to preserve the integrity of the crime scene, maintain control of the immediate area to the best of their ability until additional assistance arrives.
- c. Will, unless advised otherwise by the Chief of Police, refrain from discussing the incident with anyone except: Supervisory personnel, assigned investigators, immediate family, health care professionals, clergy and their personal attorney.
- d. Will cooperate with the department's internal administrative investigation, as well as any criminal investigation.
- e. May retain private legal counsel at their own expense. That counsel may be present at any time during questioning and before making any statements.

Upon notification that a department member has been involved in a high level use of force the on-duty Supervisor will immediately respond to the scene and:

- a. Take command and establish a command post.
- b. Secure the area and remove all unauthorized personnel, including department

members, from the scene.

- c. Protect all evidence including instruments, weapons, video, audio, photographic, etc. until such evidence can be processed and collected by an Evidence Technician.
- d. Take possession of any weapon used by the department member(s) on the scene during the use of force incident and turn it over to the investigating department member(s).
 1. The Supervisor will note the condition of the firearm (i.e. jammed, fired, position of magazine, etc).
 2. If the mechanism is obviously jammed no attempt shall be made to unload the weapon or clear the jam prior to being photographed by the investigating authority.
 3. When the department member's weapon is taken as evidence it should be replaced as soon as possible.
- e. Locate all witnesses, both sworn and civilian, and segregate them until investigations personnel arrive so that interview arrangements or necessary statements can be made.
- f. After securing the scene and identifying witnesses, the focus should be moved to the involved department member(s). The department recognizes that department members involved in shooting situations or other high level uses of force are likely to experience physiological or psychological reactions.
- g. Upon initial response, the Supervisor will need to determine a brief account of what occurred. However, in this early stage of the investigation Supervisors should refrain from seeking a detailed account of the department member's actions. Questions shall be limited to those intended to ensure the safety of the department member involved, responding department members, witnesses and the general public (Attachment B).
- h. Remove the involved department member(s) from the scene as soon as possible.
 1. It will be assumed that any department member involved in a high level use of force incident has been injured and as such will be transported to a hospital for evaluation. Every effort should be made to avoid transporting the department member to the same hospital as the injured suspect.
 2. At the department member's request, notify the department member's spouse or immediate family member designated by the department member. If the department member is physically unable to make such a request, it shall be presumed the department member would consent to the notification.
 3. If the department member is not hospitalized, they should be taken to the police station or other protected environment.
 4. Assign a supportive peer to stay with the department member and provide assistance.
 5. Do not isolate the department member. Encourage them to contact family, clergy, and/or legal counsel.

The involved department member(s) shall not be directed to complete any documents or reports relative to the circumstances surrounding the high level use of force incident for at least 48 hours. The involved department member(s) shall be afforded a reasonable

opportunity to have all documents which they author reviewed by their attorney prior to submission.

If the Supervising department member at the scene was involved in the incident, the responsibility for security and/or collection of weapons and instruments shall rest with an uninvolved Supervisor.

In the event of a high level use of force by a department member, the Supervisor on-duty shall immediately notify:

- a. Division Commanders
- b. Deputy Chief
- c. Chief of Police
- d. State's Attorney's Office
- e. Coroner's Office (death only)

Upon notification the appropriate Division Commander will proceed directly to the scene of the incident.

The Chief of Police or designee may request the assistance of additional investigative resources, including but not limited to:

- a. The Illinois State Police Investigative Team
 1. Regular business hours: 847-608-3200
 2. After hours: 847-931-2278
- b. Felony Investigative Assistance Team Major Case Unit
- c. Applicable DuPage County Investigate Resources
- d. Applicable Cook County Investigate Resources

The Chief of Police may appoint an investigative team to conduct an internal investigation to determine if the level of force used was in accordance with department policy.

- a. If an administrative investigation is conducted, investigative conflicts shall be resolved by allowing the criminal investigation to have investigative priority. This prioritization is intended to preclude competition between the two (2) investigations for access to witnesses, physical evidence, and the involved parties.

The Chief of Police shall:

- a. To the extent possible, keep department personnel informed of the incident in an effort to prevent the department member involved from being asked questions and avoid widespread rumors.
- b. Offer other support or available resources.

Department members involved in an off-duty deadly force incident will, as soon as practical, notify the on-duty Shift Supervisor regardless of the jurisdiction in which the incident occurred. Department members will cooperate with that jurisdictions investigation.

Any deadly force incident involving an off-duty Oak Brook Police department member that occurs within the Village of Oak Brook will be investigated as if the department member was on-duty at the time of the incident.

If an on-duty department member from another jurisdiction is involved in a deadly force incident, the Supervisor will respond to the incident as if the department member was employed by the Oak Brook Police Department. Additionally, the Shift Supervisor shall make every effort to ensure the department member's employer is notified.

501.8 Investigation of Officer Involved Deaths

In accordance with the Illinois Compiled Statutes, each officer-involved death investigation shall:

- a. Be conducted by at least 2 investigators, or an entity or agency comprised of at least 2 investigators, one of whom is the lead investigator.
- b. The lead investigator shall be a person certified by the Illinois Law Enforcement Training Standards Board as a Lead Homicide Investigator, or similar training approved by the Illinois Law Enforcement Training Standards Board or the Department of State Police, or similar training provided at an Illinois Law Enforcement Training Standards Board certified school.
- c. No investigator involved in the investigation may be employed by the Oak Brook Police Department.

"Officer-involved death" means any death of an individual that results directly from an action or directly from an intentional omission, including unreasonable delay involving a person in custody or intentional failure to seek medical attention when the need for treatment is apparent, of a law enforcement officer while the officer is on duty, or otherwise acting within the scope of his or her employment, or while the officer is off duty, but performing activities that are within the scope of his or her law enforcement duties. "Officer-involved death" includes any death resulting from a motor vehicle accident, if the law enforcement officer was engaged in law enforcement activity involving the individual or the individual's vehicle in the process of apprehension or attempt to apprehend.

In those incidents in which the officer-involved death being investigated involves a motor vehicle accident:

- a. At least one investigator shall be certified by the Illinois Law Enforcement Training Standards Board as a Crash Reconstruction Specialist, or similar training approved by the Illinois Law Enforcement Training Standards Board or the Department of State Police, or similar training provided at an Illinois Law Enforcement Training Standards Board certified school.

501.9 Investigation of Officer Involved Shooting

In accordance with the Illinois Compiled Statutes, each law enforcement officer who is involved in an officer-involved shooting must submit to drug and alcohol testing.

"Officer-involved shooting" means any instance when a law enforcement officer discharges a firearm, causing injury or death to a person or persons, during the performance of their official duties or in the line of duty.

The drug and alcohol testing must be completed as soon as practicable after the officer-involved shooting but no later than the end of the officer's shift or tour of duty.

1.3.8

501.10 Administrative Leave/Duty

If the effect of a use of force incident or other action in their official capacity resulting in the loss of life or serious injury dictates that a department member shall be removed from line-duty assignments, the department member may be placed on administrative leave or administrative duty by the Chief of Police.

- a. Administrative leave or administrative duty will be assigned without any loss of pay or benefits, pending the results of the investigation and departments administrative review.
- b. Administrative leave or administrative duty is not to be interpreted to infer or indicate that the department member acted improperly.

While on administrative leave or administrative duty the department member will:

- a. Refrain from any public discussion of the incident
- b. Remain available for the State Police Investigative Team, Coroner, State's Attorney, department interviews, statements, procedures, etc.
- c. Be subject to recall to line-duty at any time by the Chief of Police

Every employee at the scene or directly involved in the incident, shall participate in a Critical Incident Stress Management (CISM) debrief and will be afforded the opportunity to meet with a mental health professional within 72 hours.

To aid the immediate family (spouse, family) of the involved member in dealing with the after effects of the high level use of force incident, the Village of Oak Brook shall make available, within the employee benefit plan, opportunities for family counseling. The use of this resource is entirely at the discretion of the department member.

1.3.7

501.11 Review Committee

As soon as practicable the Chief of Police will convene a committee to conduct an administrative review of the high level use of force incident.

The Chief of Police shall ensure the committee is provided with all reasonably necessary resources and has the full cooperation of all department personnel.

The committee shall be comprised of:

- a. The Deputy Chief
- b. The Support Services Division Commander
- c. The Patrol Services Division Commander
- d. The Investigations Section Supervisor
- e. A department Use of Force instructor

The committee will review all reports, examine the facts and issues surrounding the incident and, if necessary, hear testimony from department personnel and/or witnesses.

At the conclusion of the administrative review the committee will forward a written report to the Chief of Police. The written report will include the committee's findings and any recommendations relative to:

- a. Department commendations
- b. Disciplinary actions
- c. Modifications to applicable training
- d. Changes in department policy and/or procedure

The Chief of Police may attach his comments to the committee's report in a separate memo.

Upon receiving the committee's report the Chief of Police shall meet with the Village Manager and Village Attorney within five (5) working days. At that time a joint decision will be made on the implementation of the committee's recommendations.

501.12 Return to Duty

The department member will be returned to duty only after the Chief of Police, in accordance with department procedures, and upon examination of appropriate reports, reasonably concludes that the department member is mentally, physically and emotionally prepared to resume regular duties.

Prior to returning to full duty the department member will:

- a. Be required to submit to a confidential psychological debriefing with a licensed mental health professional who is experienced with the law enforcement culture and trauma.
- b. Submit to any periodic follow-up sessions deemed necessary by the mental health professional.
- c. Re-qualify with any weapon type that may have been used in the high level use of force incident with a certified instructor.
- d. Accept any necessary re-training and may participate in a paced, gradual return by working with another department member.

The mental health professional will only be required to make recommendations to the Chief of Police pertaining to the department member's duty status, assignment or the need for further counseling. All trauma, psychological and psychiatric services and counseling sessions will be provided and paid for by the Village of Oak Brook.

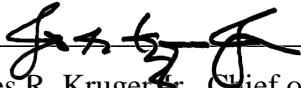
501.13 Criminal or Civil Action

If a department member is made a party defendant to any criminal or civil action they shall immediately, in writing, notify the Chief of Police. The Chief of Police will, in turn, acknowledge, in writing, the receipt of the notification.

501.14 Issuing Authority

This General Order will supersede any directives or understandings in conflict.

By order of:



James R. Kruger Sr., Chief of Police

Revisions		
01-02-2013	Attachments	Changed ECD to CEW on Attachment A.
08-27-2015	Attachments	Revised Attachment A
01-04-2016	501.8	New Section: Officer Involved Deaths
08-30-2017	501.9	New Section: Officer Involved Shooting