



## YORKVILLE POLICE DEPARTMENT

### 303 – Response to Resistance

**SUBJECT:** Response to Resistance  
**EFFECTIVE DATE:** October 08, 2019  
**DISTRIBUTION:** All Personnel

**Purpose:** The purpose of this policy is to provide department members with guidelines on the use of deadly and non-deadly response to resistance that are consistent with applicable law. This order is intended for internal department use only and should not be construed as the creation of a higher standard of safety or care in any civil or criminal procedure with respect to third party claims.

**Policy:** The Yorkville Police Department personnel will use only an objectively reasonable, necessary, and proportional under the totality of the circumstances, level of response to resistance to:

1. Accomplish a lawful objective.
2. Effect an Arrest.
3. Control a Person.
4. To effectively bring an incident under control, while protecting the life of the Officer or another.

The response to resistance used by any department member will only be that which is legally permissible to overcome the force being offered by an offender.

The response to resistance in defense of the officer or others, or the response to resistance to effect an arrest often occurs in circumstances that are tense, uncertain and rapidly evolving. Such situations involve the need for decisions that may affect the safety of the public, the officers involved, and the suspects/offenders. Response to resistance decisions shall be based on the following safety priorities as applied to those persons at risk:

1. Victim, other Persons
2. Police Officers
3. Suspects/Criminal Offenders

When feasible, the safety of a criminal offender or suspect will be a consideration, however the safety of a criminal offender or suspect will not take precedence over the safety of a victim or other person and/or police officers.

It is the responsibility of each Yorkville Police Department member to be familiar with the requirements of the laws regarding the response to resistance, and to act within the scope of the laws, departmental rules and regulations and training.

This Policy will be comprised of the following sections.

- I. **Definitions**
- II. **Response to Resistance Principles**
- III. **Lethal Weapons/ Firearms**
- IV. **Less Lethal Weapons**

V.	<b>Justification of Response to Resistance</b>
VI.	<b>Duty to Intervene</b>
VII.	<b>Duty to Render Aid</b>
VIII.	<b>Discharge of Firearms</b>
IX.	<b>Response to Resistance Reporting Procedures</b>
X.	<b>High Level Response to Resistance</b>
XI.	<b>Review Committee</b>
XII.	<b>Return to Duty</b>
XIII.	<b>Annual Review</b>
XIV.	<b>Written Directives</b>
XV.	<b>Attachments</b>
XVI.	<b>Compliance</b>
XVII.	<b>Effective Date</b>

## I. DEFINITIONS

### A. Prohibited Use of Force (Response to Resistance) by a Peace Officer: 720 ILCS 5/7-5.5

1. A peace officer shall not use a chokehold or restraint above the shoulders with risk of asphyxiation in the performance of his or her duties, unless deadly force is justified under Article 7 of the Criminal Code.
2. A peace officer shall not use a chokehold or restraint above the shoulders with risk of asphyxiation or any lesser contact with the throat or neck area of another in order to prevent the destruction of evidence by ingestion.
3. As used in this section, "chokehold" means applying any direct pressure to the throat, windpipe, or airway of another and "restraint above the shoulders with risk of positional asphyxiation" means a use of a technique to restrain a person above the shoulders, including the neck or head, in a position which interferes with the person's ability to breathe after the person no longer poses a threat to the officer or any other person. "Chokehold" does not include any holding involving contact with the neck that is not intended to reduce the intake of air such as a headlock where the only pressure applied is to the head.
4. A peace officer, or any other person acting under the color of law, further shall not:
  - i. Use force as punishment or retaliation;
  - ii. Discharge kinetic impact projectiles and all other non-or-less-lethal projectiles in a manner that targets the head, neck, groin, anterior pelvis, or back;
  - iii. Discharge conducted electrical weapons (Taser) in a manner that targets the head, chest, neck, groin, or anterior pelvis; or
  - iv. Discharge firearms or kinetic impact projectiles indiscriminately into a crowd; or
  - v. Use chemical agents or irritants for crowd control including pepper spray and tear gas, prior to issuing an order to disperse in a sufficient manner to ensure the order is heard and repeated if necessary, followed by sufficient time and space to allow compliance with the order.

### B. Deadly Response to Resistance (Deadly Force): Any response to resistance 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 great bodily harm. As specified in the Illinois Compiled Statutes, 720 ILCS 5/7-8, such acts do include:

1. 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,
2. The firing of a firearm at a vehicle in which the person to be arrested is riding.

- C. *Non-deadly Response to Resistance*: Any response to resistance other than that which is considered deadly response to resistance. Non-deadly response to resistance options include but are not limited to hands on defensive tactics, impact tools, chemical sprays, and electronically controlled weapon.
- D. *Serious Physical Injury/Great Bodily Harm*: A bodily injury that creates a substantial risk of death; causes serious permanent disfigurement; or, results in long term loss or impairment of the function of a bodily member or organ.
- E. *Reasonable Belief*: As decided by the U.S. Supreme Court in GRAHAM v. CONNOR, 490 U.S. 386 (1989), the Fourth Amendment “reasonableness” inquiry is whether the Officer’s actions are “**objectively reasonable**” in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The “reasonableness” of a particular use of force (or response to resistance) must be judged from the perspective of a reasonable Officer on the scene, and its calculus must embody an allowance for the fact that Police Officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.
- F. *Forcible Felony*: “Forcible felony” means treason, first degree murder, second degree murder, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm, or permanent disability or disfigurement, and any other felony which involves the use of threat of physical force or violence against any individual.
- G. *Unnecessary Response to Resistance*: Response to resistance that is uncalled for and that serves no purpose, or response to resistance that goes beyond that amount of response that is objectively reasonable or necessary based on the totality of the circumstances.
- H. *Totality of the Circumstances*: All facts known to the peace office at the time, or that would be known to a reasonable officer in the same situation, including the conduct of the officer and the subject leading up to the use of deadly force.
- I. *Imminent*: A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or great bodily harm to the peace officer or another person. It is not a fear of a future harm.
- J. *Police Officer*: A Peace Officer as defined by Illinois Statutes, 720 ILCS Section 5/2-13.
- K. *Duty*: Is meant to mean anytime an Officer is officially assigned to perform within the scope of law enforcement. This includes, but is not limited to regular duty assignments, stakeouts or voluntary duty assignments.
- L. *Off-Duty*: Is anytime an Officer is **not** acting within the scope of law enforcement. Officers of the Yorkville Police Department are not required to carry a weapon while off-duty.
- M. *Officer-Involved Death*: 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/her employment, or while the officer is off-

duty, but performing activities that are within the scope of his/her law enforcement duties. It also includes any death resulting from a motor vehicle crash, 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 an attempt to apprehend (50 ILCS 727/1-5)

- N. Cooperative Person: Is a person who is cooperative or is developed into a cooperative individual.
- O. Passive Resister: Is a person that does not respond to verbal or other direction but exhibits no resistive movement.
- P. Active Resister: Is a person who exhibits resistive movement to avoid physical control.
- Q. Aggressive Assailant: Is a person who performs physical actions, without weapons, that are aggressive, and he/she demonstrates behavior that is likely to cause physical injury.
- R. Deadly Force Assailant: Is a person whose actions will likely cause death or great bodily harm.
- S. High Level Response to Resistance: The use of a firearm as a deadly response to resistance control tactic or any response to resistance 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 response to resistance.
- T. Officer-Involved Death: 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, by 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. 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.
- U. Less-Lethal Weapons: a weapon, which by its design is not intended to cause death or great bodily harm.
- V. Conducted Electrical Weapon (CEW): Weapons designed to disrupt a subject's central nervous system by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.
- W. Kinetic Impact Projectile: A projectile that does not contain an explosive charge and is designed to transfer the kinetic energy of the projectile onto the target, greatly minimizing the chance of penetrating human skin. The force delivered by a kinetic impact projectile is similar to that delivered by a baton strike.
- X. BolaWrap: A hand-held remote restraint device that discharges an eight-foot Kevlar cord to entangle an individual at a range of 10-25 feet. The BolaWrap is equipped with entangling barbs at each end of the Kevlar cord.

## II. RESPONSE TO RESISTANCE PRINCIPALS

- A. 720 ILCS 5/ 7-5 Peace Officer Use of Force in Making Arrest, sets out the following:

A peace officer, or any person whom he has summoned or directed to assist him, need not retreat (excluding tactical repositioning or other de-escalation techniques) or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes, based on the totality of circumstances, to be necessary to effect the arrest and any force which he reasonably believes, based on the totality of circumstances, to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm **only** when he reasonably believes, based on the totality of circumstances, both that:

- 1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and the officer reasonably believes that the person to be arrested is likely to cause great bodily harm to another;
- 2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

B. 720 ILCS 5/ 7-5 Peace Officer Use of Force in Making Arrest, further sets out the following restrictions generally and specifically regarding *deadly force*:

- 1) A peace officer shall not use deadly force against a person based on the danger that the person poses to himself or herself if a reasonable officer would believe the person does not pose an imminent threat of death or great bodily harm to the peace officer to another person; and
- 2) A peace officer shall not use deadly force against a person who is suspected of committing a property offense, unless that offense is terrorism or unless deadly force is otherwise authorized by law.

Yorkville Police Officers are authorized to use deadly response to resistance only when reasonably necessary in the defense of human life. In determining whether deadly force is reasonably necessary, officers shall evaluate each situation in the light of the totality of circumstances of each case and shall use other available resources and techniques, if reasonably safe and feasible to a reasonable officer. Where feasible, prior to the use of force, a peace officer shall make reasonable efforts to identify himself as a peace officer and warn that deadly force may be used. (720 ILCS 5/7-5(a)(2)(a-5) (Tenn. v. Garner).

C. An Officer may respond to resistance in the performance of his or her duties in the following circumstances:

1. To prevent or terminate the commission of an offense.
2. In self-defense or the defense of another.
3. To effect the lawful arrest of offenders including those resisting arrest (with predicate offense) or attempting to flee from arrest or custody.
4. To prevent a person from injuring themselves (no deadly force – see above)

D. The response to resistance options in order of increasing severity is set forth as follows:

1. Verbal Persuasion
2. Non-Deadly Response to Resistance
3. Deadly Response to Resistance

- E. Verbal Persuasion as a means of effecting custody.
1. The practice of courtesy and dialogue may encourage understanding and cooperation on the part of the public and that of offenders to be arrested.
  2. Verbal commands that are complied with are the desired method of gaining cooperation from the public, placing an offender to be arrested into custody, and defusing potentially violent situations. However, recognizing that not all persons will comply with lawful verbal commands and submit to arrest and/or cease aggressive or violent actions, lawful response to resistance by police may be necessary to effect an arrest and to protect the officer or others during the arrest process.
  3. **De-escalation** – officers should consider actions which may increase officer safety and prevent or reduce the need for force, such as summoning additional resources, formulating a plan with responding officers before entering an unstable situation, and employing crisis intervention techniques.
- F. An officer's response to resistance shall be discontinued once the officer determines that compliance has been achieved. However, it is not intended that any suspect should ever be allowed to be the first to exercise force, thus gaining an advantage in a physical confrontation. Nothing in this order should be interpreted to mean that an officer is required to resort to a lesser level of response to resistance in order to defend against a threat of violence that places the officer or others at greater risk; or to engage in prolonged physical confrontation before resorting to a response to resistance that will more quickly and safely bring the arrestee under physical control.
- G. Use of Force to Prevent Escape, 720 ILCS 5/7-9  
A peace officer, or other person who has an arrested person in his or her custody, is justified in the use of force, except deadly force, to prevent the escape of the arrested person as he or she would be justified in using if he or she were arresting such person. Deadly force shall not be used unless, based on the totality of the circumstances, deadly force is necessary to prevent death or great bodily harm to himself or herself or such other person.

### III. LETHAL WEAPONS/FIREARMS

- A. A Yorkville officer is not permitted to use a firearm unless:
1. The use of the firearm is approved by the Chief of Police or his designee.
  2. He or she is formally trained by an authorized instructor and is qualified in its proficient use as determined by training procedures.
- B. The discharge of a firearm for the purpose of a warning shot is prohibited under any circumstances, without exception. Officers will not fire into the air, ground or other location in an attempt to halt a fleeing offender.
- C. Officers shall not discharge a firearm at or from a moving vehicle unless, based on the totality of the circumstances, there exists an imminent or immediate threat of death or great bodily harm offered by the driver or occupants of the vehicle to the officer or others; or where the escape of an offender(s) otherwise indicates that he/they will endanger human life or inflict great bodily harm unless arrested without delay. This may include the offender's use of a vehicle as a deadly weapon NOT solely as means of escape.
- D. Where the offender is not visible; officers shall not fire into a building, through doors or other barriers behind which an offender is hiding, unless the offender offers an imminent or immediate threat of death or great bodily harm and the offender's location can reasonably be identified.

- E. Following a deadly response to resistance, a supervisor will review the Supervisor's Public Safety Questionnaire on Scene of Deadly Response to Resistance Incident (Attachment C) with the involved officer(s). Refer to Section X, High Level Response to Resistance.

#### IV. LESS LETHAL WEAPONS AND DEFENSIVE TACTICS

- A. Department members may have at hand certain department authorized, less lethal defensive weapons available for carry only after demonstrating proficiency in their use. Sworn officers assigned to or engaged in uniformed field duties **are required to carry at least two authorized less lethal weapon** and to have them immediately available. Department authorized less lethal weapons include:
1. ASP Baton/Baton: The baton is intended to be used against unarmed aggressive suspects or when lesser levels of control have failed or been determined to be inadequate.
    - a. Officers may only carry batons authorized by the department after completing initial academy training or other department authorized training and demonstrating proficiency in their use.
    - b. The use of the baton shall follow department training guidelines. Baton training and recertification will be conducted as directed by the department training division, at least biennially.
    - c. Flashlights are not intended to be used as primary defensive tools. If an officer is forced to use a flashlight as a defensive tool, it will be used in accordance with department baton training guidelines.
  2. Use of Oleoresin Capsicum (OC): The use of OC is intended to be used primarily against unarmed subjects who officers reasonably believe have indicated physically and/or verbally that they intend to resist arrest or assault an officer or other person.
    - a. Officers must complete OC training prior and demonstrate proficiency in its use to carrying or using it. OC training and recertification will be conducted as directed by the department training division, at least biennially.
    - b. OC may be used for animal control or attack prevention.
    - c. OC should not be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.
  3. Taser: The Taser is a conducted electrical weapon (CEW) that is intended for use against unarmed offenders or those armed with weapons or objects employed as weapons not easily capable of spanning the distance to the officer employing the Taser and who officers reasonably believe have indicated physically and/or verbally that they intend to assault an officer or other person, resist arrest, or do serious harm to themselves. This DOES NOT include use of the Taser where the offender is armed with a firearm or other weapon that places the officer or others in imminent or immediate fear of threat to life.
  4. 12-gauge Less Lethal Shotgun: The 12-gauge Less Lethal Shotgun is a kinetic impact projectile weapon that fires a translucent 12-gauge shell which contains a drag stabilized projectile. The projectile is a 40-gram Kevlar sock containing #9 steel shot and has a max effective range of 75 feet. The less lethal shotgun is intended for use against unarmed offenders or those armed with weapons or objects employed as weapons

not easily capable of spanning the distance to the officer employing the shotgun and who officers reasonably believe have indicated physically and/or verbally that they intend to assault an officer or other person, resist arrest, or do serious harm to themselves. Use of the less lethal shotgun should follow training guidelines and operators will receive certification from a certified instructor on an annual basis.

5. BolaWrap: A hand-held remote restraint device that discharges an eight-foot Kevlar cord to entangle an individual at a range of 10-25 feet. The BolaWrap is equipped with entangling barbs at each end of the Kevlar cord. The BolaWrap is intended for use against unarmed offenders or those armed with weapons or objects employed as weapons not easily capable of spanning the distance to the officer employing the BolaWrap and who officers reasonably believe have indicated physically and/or verbally that they intend to assault an officer or other person, resist arrest, or do serious harm to themselves. Reasonable efforts should be made to target lower extremities or lower arms. The head, neck, chest and groin shall be avoided.
- B. Weaponless control techniques/defensive tactics proficiency will be determined by a defensive tactics instructor based on an officer's demonstration of proficiency through the performance of techniques taught. Ongoing training will be conducted as directed by the department training division, and proficiency demonstrated at least biennially.
- C. Weapon of Necessity: An item an officer uses as a weapon that is not issued or approved as a weapon by the department. Weapons of necessity can be used in extreme, rapidly evolving circumstances where there is an immediate need for the officer to defend himself/herself or another to prevent injury or death.
1. Employees are prohibited from carrying or using blackjacks, saps, weighted gloves and metal knuckles.
  2. Choke holds, restraint above the shoulders with risk of asphyxiation, and/or carotid holds which are designed to reduce or stop the flow of blood to the brain shall not be used as a control technique unless reasonably necessary in defense of human life.

## V. JUSTIFICATION OF RESPONSE TO RESISTANCE

The decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time of the decision, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.

## VI. DUTY TO INTERVENE

- A. An Officer shall, if the officer has a reasonable opportunity, intervene to prevent or stop another peace officer in his or her presence from using any unauthorized force or force that exceeds the degree of force permitted, if any, without regard for chain of command. An officer who observes another employee use force that exceeds the degree of force permitted by law, should promptly (in no event more than 5 days after the incident) report these observations to a supervisor, including the following details:



1. Date, time and place of occurrence;
2. Identity, if known, and description of participants; and
3. Intervention actions taken and whether they were successful.

B. Officers must notify supervisors whenever they observe unreasonable, unauthorized, or excessive force, anytime a choke hold is applied, and when any of the following has occurred or is alleged:

1. The application of force caused a visible injury
2. The application of force would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort
3. The individual subjected to the force complained of injury or continuing pain
4. The individual indicates intent to pursue litigation
5. Any application of the conducted energy device (e.g., TASER), kinetic energy projectile, BolaWrap, or control device.
6. Any application of a restraint device other than handcuffs, shackles, or belly chains
7. The individual subjected to the force was rendered unconscious
8. An individual was struck or kicked

## **VII. DUTY TO RENDER MEDICAL AID**

A. Officers must, as soon as reasonably practical, determine if a person is injured, whether as a result of a use of force or otherwise, and render medical aid and assistance consistent with training and request emergency medical assistance if necessary. Rendering medical aid and assistance includes, but is not limited to:

1. performing emergency life-saving procedures such as cardiopulmonary resuscitation or the administration of an automated external defibrillator; and
2. the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.

An officer does not violate this duty if the failure to render aid is due to circumstances such as lack of appropriate specialized training, lack of resources or equipment, or if it is unsafe or impracticable to render aid.

B. If any department member, other than an Officer, observes the individual is clearly injured after any application of response to resistance; the individual complains of being injured, or the member reasonably believes the person is injured or needs medical attention, once it is safe and appropriate to do so the member shall:

1. Render appropriate first aid within the limits of the member's training and available equipment.
2. Immediately summon medical assistance from rescue personnel.

C. Both Officers and department members shall further:

1. Notify the on-duty Supervisor.
2. Complete the appropriate incident reports regarding the injury and the circumstances.
3. If possible, photograph the injured area.

## VIII. DISCHARGE OF FIREARMS

- A. Any discharge of law enforcement firearms, with the exception of training, practice or approved recreational purposes, whether intentional or accidental, on or off-duty, within or outside of the departments geographical jurisdiction, and whether or not personal injury or property damage results, shall immediately be brought to the attention of the Shift Supervisor by the Officer responsible for the firearm discharge. This requirement applies to any Officer aware of the firearm discharge, not only to the Officer responsible for firing the weapon. An incident report will be completed whenever an Officer discharges a firearm for putting down an animal.
- B. The Shift Supervisor shall immediately initiate an investigation and shall complete a report with the pertinent facts, including names and addresses of witnesses. The report shall be submitted to the Chief of Police following the Chain of Command.
- C. If any significant property damage resulted from the firearm discharge, the Chief of Police will be notified immediately regardless of the hour.
- D. Whenever a firearm is discharged, whether accidentally or intentionally, and results in either injury or a death, it shall be investigated as a high-level response to resistance.

## IX. RESPONSE TO RESISTANCE REPORTING PROCEDURES

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

A written report and the Response to Resistance Reporting Checklist and the Subject Resistance Resisting Form Supervisory Review form which can be found as Attachments A and B respectively, must be forwarded for review to the Field Operations Deputy Chief through the Chain of Command whenever an employee:

- 1. Applies weaponless response to resistance beyond that which is normally needed to make an arrest such as a department approved and trained pain compliance technique.
- 2. Applies response to resistance upon another through the use of lethal or less lethal weapons.
- 3. Applies to the pointing of a firearm. Less Lethal firearm, CEW, or BolaWrap at any person.
- 4. Responds to resistance which results in or is alleged to have resulted in the injury or death of another.
- 5. Uses deadly response to resistance.
- 6. Is directed to do so by a Supervisor.

The written report shall be completed and submitted by the employee involved in the response to resistance incident prior to the end of his or her shift or as directed by the Supervisor.

- 1. The report will contain the pertinent facts of the incident, including any injuries to the involved employee(s). The Response to Resistance Checklist (**Attachment A**), shall be used to assist in writing the police report.
- 2. The Field Operations Deputy Chief will report the result of an internal investigation to the Chief of Police if one is so warranted.

All response to resistance incidents shall be documented in the officer's written case report, as per the Response to Resistance Reporting Checklist (Attachment A), to include the following conditions:

1. Facts and circumstances detailing the level and type of threat, passive / overt resistance or violence directed against the officer or others that required the officer to employ defensive measures and / or response to resistance in making an arrest and / or in defense of the officer or other persons.
2. Description of type of response and any defensive tools employed.
3. Effectiveness of the response employed against the offender(s).
4. Injuries to arrestee.
5. Pre-existing injuries to arrestee.
6. Verbal statements made by the offender.
7. ALL injuries to officers, or others; minor or otherwise.
8. Alcohol / Controlled Substance consumption effect on arrestee.
9. Witnesses to the incident / arrest.
10. Mental illness.

B. It is the responsibility of the shift supervisor to ensure that the above elements are included in the officer's report.

C. **RESPONSE TO RESISTANCE – SUPERVISOR RESPONSIBILITIES**

1. Shift Supervisors will be responsible for conducting an initial investigation of all Non-Deadly Response to Resistance.
  - a. The Shift Supervisor shall ensure that overall and detailed photographs are taken of any injury sustained by anyone involved in a police response to resistance incident. If the suspect is not injured, over all photographs of the suspect should also be taken to document the lack of injuries and appearance of the suspect at the time of the arrest. Photographs of the arresting Officers should also be taken to show the appearance of the Officers at the time of the response to resistance.
  - b. The Shift Supervisor should interview all involved officers.
  - c. The Shift Supervisor shall interview the suspect, at the scene, on the in-car video/audio system in order to get a verbal record of the suspect's account of the incident as quickly after the incident as possible. If the Shift Supervisor feels it is not prudent to interview the suspect at that time, due to a hostile environment, the Shift Supervisor may move to another location for the interview. The Shift Supervisor may place the suspect in front of the camera if he/she deems this action as necessary for the investigation.
  - d. The Shift Supervisor will also interview all known witnesses to get their account of the incident as quickly after the event as possible. Every effort should be made to obtain a video/audio statement from the witnesses utilizing the in-car video/audio system. If it is not feasible to obtain a video/audio statement, the Shift Supervisor shall utilize a digital audio recorder to obtain an audio recording.
  - e. The Shift Supervisor shall ensure the video/audio tapes are entered into evidence as soon as possible. The Shift Supervisor is responsible to ensure that all documentation and evidence is preserved.

X. **HIGH LEVEL RESPONSE TO RESISTANCE**

- A. In the event of a high-level response to resistance incident, the employee:

1. Shall immediately advise communications of his or her location and request the response of additional assistance, i.e. police and medical personnel.
2. Shall, in an effort to preserve the integrity of the crime scene, maintain control of the immediate area, to the best of his or her ability, until additional assistance arrives.
3. Will, unless advised otherwise by the Chief of Police, refrain from discussing the incident with **anyone** except: Supervisory personnel and assigned investigators, the State Police investigative team; immediate family, health care professionals, clergy and their personal attorney.
4. Will cooperate with the department's internal administrative investigation, as well as the Illinois State Police investigation.
5. May retain private legal counsel at his or her own expense. That counsel may be present at any time during questioning and before making any statements.
6. Any requests for union representation will be accommodated.

B. Supervisor's Responsibilities

1. Upon notification that an employee has been involved in a high-level response to resistance, the on-duty Supervisor will immediately respond to the scene and take Command of the incident.
2. The Supervisor will take possession of any weapon used by the employee(s) on the scene during the response to resistance incident and turn it over to the investigating Officer(s).
  - a. The Supervisor will note the condition of the firearm, i.e. jammed, fired, position of magazine, etc.
  - b. If the weapon is obviously jammed, no attempt shall be made to unload the weapon or clear the jam.
  - c. When an employee's weapon is taken as evidence, it should be replaced as soon as possible.
  - d. Involved officers should be allowed to put on civilian clothes as soon as possible.
  - e. Involved officers should be allowed to contact family members as soon as possible. Officers should be reminded to share their health status and needs.
3. After securing the scene and identifying witnesses, focus should be moved to the involved employee(s). The department recognizes that employees involved in shooting situations or other high-level response to resistance are likely to experience physiological or psychological reactions.
4. 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 employee's actions. Refer to Supervisor's Public Safety Questionnaire on Scene of Deadly Response to Resistance (**Attachment C**).
5. Remove the involved employee(s) from the scene as soon as possible.
  - a. If there is any possibility that the employee sustained injury during the encounter, he/she should be transported to a hospital for evaluation. Assume that the employee is unable to assess himself/herself. When in doubt, transport the employee to the

hospital. Every effort should be made to avoid transporting the employee to the same hospital as the injured suspect.

- b. If the employee is not hospitalized, he/she should be taken to the police station or other protected environment.
  - c. Assign a supportive peer (NOT involved in the incident) to stay with the employee and provide assistance.
  - d. Do not isolate the employee. Encourage him/her to contact family, clergy, and/or legal counsel.
6. Officer-Involved Shooting - Drug and Alcohol Testing Requirement. (50 ILCS 727/1-25)
- a. Pursuant to 50 ILCS 727, *The Police and Community Relations Improvement Act (Attachment D)*, each law enforcement officer who is involved in an officer-involved shooting must submit to drug and alcohol testing to be completed as soon as practicable after the officer-involved shooting but no later than the end of the involved officer's shift or tour of duty.
    - i. The involved officer will be accompanied by the On-Call Command Staff or designee to the testing center established by the Department.
    - ii. If after hours, the after-hours/on-call drug & alcohol testing service established by the Department can be called.
  - b. As used in 50 ILCS 727, "officer-involved shooting" means any instance when a law enforcement officer discharges his or her firearm, causing injury or death to a person or persons, during the performance of his or her official duties or in the line of duty.
7. If the supervising Officer at the scene was himself/herself involved in the incident, the responsibility for security and/or collection of weapons and instruments shall rest with an uninvolved Supervisor.

C. In the event of a high-level response to resistance by a department member:

1. The Supervisor on duty shall immediately notify:
  - a. On-Call Command Staff.
  - b. Chief of Police.
  - c. Field Operations Deputy Chief.
  - d. Support Services Deputy Chief.
  - e. Illinois State Police Investigation Team and Crime Lab.
  - f. State's Attorney's Office.
  - g. Coroner's Office (death only).
2. The Kendall County Major Crimes Task Force or the Illinois State Police Investigation Team will respond and conduct an investigation of all high-level response to resistance incidents. The Investigation Team can be contacted at the following numbers:

**Regular business hours: (815)740-1284**

**After hours: (815)726-6377**

- a. Additionally, any officer-involved death investigation shall be conducted pursuant to 50 ILCS 727 (**Attachment D**) which delineates requirements for officer-involved death investigations, including dissemination of a completed report on the investigation.

3. The Chief of Police **may** appoint an Investigative Team to conduct an internal investigation to determine if the level of response to resistance used was in accordance with department policy and may be obligated to report excessive uses of force to the Illinois Law Enforcement Training and Standards Board (“ILETSB”).
  - a. If an administrative investigation is conducted, investigative conflicts shall be resolved by allowing the State Police investigation to have investigative priority. This prioritization is intended to preclude competition between the two investigations for access to witnesses, physical evidence, and the involved parties.
  - b. The Chief of Police shall:
    1. To the extent possible, keep departmental personnel informed of the incident in an effort to prevent the employee involved from being asked questions and avoid widespread rumors.
    2. Offer other support or available resources.

D. Administrative Leave/Duty

1. Any employee, whose action(s) or response to resistance in an official capacity results in death or serious physical/bodily injury, shall be removed from operational assignments, pending an administrative review.
2. If the effect of a response to resistance incident or a critical or traumatic incident dictates that an employee be removed from line-duty assignments, the employee will be placed on administrative leave or administrative duty by the Chief of Police, or designee.
  - a. Administrative leave or administrative duty will be assigned without any loss of pay or benefits, pending the results of the State Police Investigation and the department’s administrative review.
  - b. Administrative leave or administrative duty is not to be interpreted to infer or indicate that the employee acted improperly.
3. 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, ILETSB, department interviews, statements, procedures, etc.
  - c. Be subject to recall to line-duty at any time by the Chief of Police.
3. Everyone at the scene or directly involved in the incident, should have a debriefing with a mental health professional within 72 hours.
4. One Supervisor shall be assigned to maintain regular communication with the Officer while the investigation is pending and throughout until the close of the case reminding them of protocol, court dates, rights, etc.

**XI. REVIEW COMMITTEE**

- A. As it is the policy of the Yorkville Police Department to react to response to resistance incidents in a controlled, preplanned fashion designed to balance the need to preserve the integrity of the department while also protecting the rights of its employees, the department will investigate, or cause to be investigated, all known or alleged response to resistance incidents by its employees. All available reports, videos, KenCom radio traffic/dispatch, written statements, etc. will be reviewed during the response to resistance review. The response to resistance review shall be conducted as soon as practical after the incident however, no later than 7 working days.
1. First by the Shift Supervisor approving the report. The Shift Supervisor will complete the Action-Response Report (**Attachment B**) and will forward the form and a copy of the case report to the Defensive Tactics Instructor/Range Master. For each officer involved in a response to resistance incident an Action-Response Report (**Attachment B**) will be completed. A single response to resistance report review form is not sufficient if there are multiple officers involved in the incident.
  2. The Defensive Tactics Instructor/Range Master will complete the appropriate sections of the form and forward it to the Field Operations Deputy Chief for comment. The form and a copy of the case report will then be forwarded to the Chief of Police.
  3. Once reviewed by the Chief of Police, the Subject Resistance Reporting Form Supervisory Review will be placed in a "Response to Resistance" file maintained by the Field Operations Deputy Chief.
- B. High Level Response Review - As soon as practicable the Chief of Police will convene a Review Board to conduct an administrative review of a high-level response to resistance incident (Deadly / Great Bodily Harm Response to Resistance).
1. The Chief of Police shall ensure the Review Board is provided with all reasonably necessary resources and has the full cooperation of all Department personnel.
  2. The Review Board may be comprised of:
    - a. Field Operations Deputy Chief.
    - b. Support Services Deputy Chief.
    - c. Training Sergeant.
    - d. Detective Sergeant.
    - e. Department Defensive Tactics Instructor/Range Master.
    - f. States Attorney.
    - g. United City of Yorkville Attorney.
  3. The Review Board will review all reports, examine the facts and issues surrounding the incident and, if necessary, hear testimony from Department personnel and/or witnesses.
  4. The Response to Resistance Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident. The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process. The board does

not have the authority to recommend discipline. The Chief of Police will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges, the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration. The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force. Any questioning of the involved employee conducted by the board will be in accordance with department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law. The board shall make one of the following recommended findings:

- A. The employee's actions were within department policy and procedure.
- B. The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief of Police. The Chief of Police shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief of Police's final findings will be forwarded to the involved employee's Deputy Chief for review and appropriate action. If the Chief of Police concludes that discipline should be considered, a disciplinary process will be initiated. At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief of Police.

- 5. The Chief of Police may attach his comments to the Review Board's report in a separate memo.
- 6. Upon receiving the Review Board's report, the Chief of Police shall meet with the United City of Yorkville Administrator and the United City of Yorkville Attorney. At that time a joint decision will be made on the implementation of the Review Board's recommendations.
- 7. If an employee is made a party defendant to any criminal or civil action, he/she shall immediately, in writing, notify the Chief of Police. The Chief of Police will, in turn, acknowledge, in writing, the receipt of the notification.

## **XII. RETURN TO DUTY**

- A. The employee will be returned to duty only after the Chief of Police, in accordance with department general orders, and upon examination of appropriate reports, reasonably concludes that the employee is mentally, physically, and emotionally prepared to resume regular duties.
- B. Prior to returning to full duty, the employee will:



1. 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.
  2. Submit to any periodic follow-up sessions deemed necessary by the mental health professional.
  3. Re-qualify with any weapon type that may have been used in the high-level response to resistance incident. The employee will be allowed to qualify with the minimum amount of people present.
  4. Accept any necessary re-training and may participate in a paced, gradual return by working with another employee.
- C. The mental health professional will only be required to make recommendations to the Chief of Police pertaining to the employee 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 United City of Yorkville.

### **XIII. ANNUAL REVIEW**

In an effort to reveal patterns or trends that could indicate training needs and/or policy modifications, the Chief of Police or designee shall conduct an annual analysis of all response to resistance incident reports.

- A. All response to resistance incidents will be reviewed.
- B. If during the review of an incident a training issue is identified, the Field Operations Deputy Chief will notify the Support Services Deputy Chief, who oversees the training committee, to have the issue addressed in the next training cycle.
- C. On an annual basis, the Field Operations Deputy Chief will complete a review of all response to resistance incidents that occurred in the previous calendar year. The report will then be forwarded up the chain of command to the Chief of Police in a detailed analysis including identified trends/patterns of the department's incidents, activities, policies and practices for that year. This analysis will include at a minimum:
  1. Total number of incidents for the year.
  2. Names of Department members involved.
  3. Date, time, location and type of each incident.
  4. Race, age and gender of subjects involved.
  5. Injuries that were sustained by Officers and/or subjects, to include medical treatment obtained.
  6. Criminal charges filed, if applicable.
  7. Levels and types of force utilized.
  8. Training, equipment, and policy and practice needs.
  9. Review of policies, procedures and training to include recommendations, if any.
- D. An annual review of all assaults on law enforcement officers will also be completed to determine trends or patterns, with recommendations to enhance officer safety, revise policy, or address training issues.
- E. The Field Operations Deputy Chief shall report the following types of resistance incidents to the FBI in accordance with the National Use of Force Data Collection Project:
  1. When a fatality to a person occurs connected to a response to resistance by a law enforcement officer.

2. When there is serious bodily injury to a person connected to a response to resistance by a law enforcement officer
3. In the absence of either death or bodily injury, when a firearm is discharged by a law enforcement officer at or in the direction of a person.

Data provided in accordance with the National Use of Force Data Collection Project shall be submitted electronically through:  
<https://www.fbi.gov/services/cjis/ucr/use-of-force>.

#### **XIV. WRITTEN DIRECTIVES**

Before being given authorization to carry weapons, all employees will be issued copies of and be instructed in the policies regarding the response to resistance necessary to accomplish lawful objectives and rendering appropriate medical aid after the response to resistance. Policy receipt and curriculum delivery must be documented. In-service training and review will occur at least annually. Officers will receive periodic training on De-escalation tactics, including alternatives to force.

#### **XV. ATTACHMENTS**

- Attachment A: Response to Resistance Reporting Checklist
- Attachment B: Subject Resistance Reporting Form Supervisory Form
- Attachment C: Supervisor's Public Safety Questionnaire on Scene of Deadly Response to Resistance
- Attachment D: The Police and Community Relations Improvement Act (50 ILCS 727)

#### **XVI. COMPLIANCE**

It is the responsibility of all Officers, Supervisors, and Administrative Personnel to comply with all sections of this directive. This Policy supersedes all previous written and unwritten policies and procedures of the Yorkville Police Department on the above subject.

#### **XVII. EFFECTIVE DATE**

This Policy shall be effective as of: July 28, 2020

By order of,



James Jensen  
Chief of Police