

MAUI COUNTY POLICE DEPARTMENT

**GENERAL ORDERS**  
**CHAPTER 101**  
**ROLE AND AUTHORITY**

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Rescinds: GO 101.8 (5/06/20)  
New materials underlined

Accreditation Standards: 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.2.1, 4.2.2, 4.2.3, 4.2.4, 4.3.4

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**RESPONSE TO RESISTANCE**  
**G.O. 101.8**

I. PURPOSE

To outline Department guidelines concerning individual discretion and to define the legally mandated authority vested in sworn personnel.

II. POLICY

The Maui Police Department recognizes the incalculable value of each human life. Officers of the Maui Police Department are vested with the legal authority to use force to protect the public welfare which requires respect and consideration of all human interests. Therefore, it is the policy of this Department that in all cases, on-duty and off-duty, officers shall use only that force which reasonably appears necessary to accomplish valid police objectives.

III. AUTHORITY

Hawaii Revised Statutes §703-307 Use of Force in Law Enforcement, states in part;

"(2) *The use of force is not justifiable under this section unless:*

- (a) *The actor makes known the purpose of the arrest or believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and*
- (b) *When the arrest is made under a warrant, the warrant is valid or believed by the actor to be valid.*

(3) *The use of deadly force is not justifiable under this section unless:*

- (a) *The arrest is for a felony;*
- (b) *The person effecting the arrest is authorized to act as a law enforcement officer, or is assisting a person whom he believes to be authorized to act as a law enforcement officer; and*
- (c) *The actor believes that the force employed creates no substantial risk of injury to innocent persons; and*

- (d) *The actor believes that:*
- (i) *The crimes for which the arrest is made involved conduct including the use or threatened use of deadly force; or*
  - (ii) *There is a substantial risk that the person to be arrested will cause death or serious bodily injury if his apprehension is delayed.*
- (4) *The use of force to prevent the escape of an arrested person from custody is justifiable when the force could justifiably have been employed to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a law enforcement officer is justified in using force which he believes to be immediately necessary to prevent the escape from a detention facility."*

#### IV. DEFINITIONS

**BLUE TEAM:** Software used by the Maui Police Department to enter and manage response to resistance incidents.

**BODILY INJURY:** As defined by HRS §707-700 "physical pain, illness, or any impairment of physical condition."

**CHEMICAL AGENTS (CA):** shall be defined as any chemical device containing Oleoresin Capsicum (OC), or Orthochlorobenzalnalonitrile (CS).

**CONDUCTIVE ENERGY WEAPON:** Weapons designed to disrupt the subject's central nervous system by means of deploying a safe amount of electrical energy to temporarily incapacitate an actively resistive or violent suspect.

**DEADLY FORCE:** Deadly force is defined by HRS §703-300 as "force which the actor uses with the intent of causing or which the actor knows to create a substantial risk of causing death or serious bodily harm. Intentionally firing a firearm in the direction of another person or in the direction which another person is believed to be constitutes deadly force. A threat to cause death or serious bodily injury, by the production of a weapon or otherwise, so long as the actor's intent is limited to creating an apprehension that he will use deadly force if necessary, does not constitute deadly force."

**DRAWING FIREARM:** Removing the firearm completely from the holster.

**FORCE:** As defined by HRS §703-300 "any bodily impact, restraint, or confinement, or the threat thereof."

**PHYSICAL FORCE:** Any force that results in pain or injury, however slight.

**REASONABLE BELIEF:** defined as an opinion, based on the facts and circumstances at the time of the incident, upon which a police officer would reasonably believe.

**SERIOUS BODILY INJURY:** As defined by HRS §707-700 "bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

**TASER (Models X2 and X26):** A conductive energy weapon utilized by the department.

UNLAWFUL FORCE: Any force, or physical force, that is employed contrary to law.

WEAPON: Any object or instrument which is capable of or utilized in a manner which may cause bodily injury, serious bodily injury, or death to another.

V. PROHIBITIONS

- A. Police officers are prohibited from carrying any unauthorized firearms or ammunition while on-duty or off-duty.
- B. Any device or equipment not issued or approved by the Department is prohibited.
- C. Warning shots are prohibited.
- D. Approved devices or equipment shall be utilized for law enforcement purposes only.
- E. Officers shall not draw or exhibit their firearms unless it is to accomplish a legitimate police objective or purpose.

VI. LEVELS OF FORCE

- A. No policy can realistically predict the variable situations an officer will encounter in the field. It is recognized that each officer must be entrusted with well-reasoned discretion to determine the appropriate use of force in each incident. The ultimate objective in every law enforcement encounter is to minimize injury to everyone involved. Nothing in this policy requires an officer to suffer physical injury before applying reasonable force to effect self-defense, overcome resistance, effect the arrest, or to prevent escape.
- B. Any application of force by a member of this Department will be judged by a standard of "reasonableness." A number of factors need to be considered in the determination of whether or not to apply any level of force. Those factors should include, but are not limited to:
  - 1. The conduct of the individual being confronted (as reasonably perceived by the officer at the time.)
  - 2. Officer/Subject factors (age, gender, size, relative strength, skill level, injury/exhaustion, number of officers vs. subjects, etc.)
  - 3. Mental capacity (influence of drugs/alcohol.)
  - 4. Proximity of weapons.
  - 5. Availability of other options (what resources are reasonably available to the officer under the circumstances).
  - 6. Seriousness of the suspected offense or reason for contact with the individual.
  - 7. Training and experience of the officer.
  - 8. Potential for injury to citizen, officers, and suspects.

9. Risk of escape.
  10. Other exigent circumstances.
- C. Each officer is expected to respond with only that level of force which is reasonable to accomplish a legitimate law enforcement purpose. The various levels of force authorized by the Maui Police Department are:
1. Command Presence.
  2. Verbal Direction.
  3. Soft empty hand control.
  4. Chemical Agent/Conductive Energy Weapon.
  5. Hard empty hand control.
  6. Hard intermediate weapons.
  7. Deadly.

#### VII. USE OF FIREARMS

- A. Officers shall not discharge a firearm from or at a moving vehicle except as a last resort to prevent serious bodily injury or death to the officer or another person.
- B. When using deadly force, the intent will be to stop the threat of serious bodily injury or death to the officer or another person.

#### VIII. REPORTING PROCEDURES

- A. A supervisor shall be immediately informed whenever physical force is used that results in pain or injury, there is an unintentional discharge of a firearm without injury, or the intentional discharge of a firearm was to destroy an animal. Supervisors shall also be notified whenever force is used through the use of less-lethal weapons.
  1. Upon notification the supervisor shall immediately respond to the scene.
    - a. Exception
 

In situations where a delay in the transporting of arrestee(s) may result in the escalation of hostilities, the supervisor can authorize a meeting with the arresting officer away from the scene.
- B. Officers shall document the incident in ILEADS and in Blue Team whenever force is used beyond passive or compliant handcuffing of a suspect, unless the employee falls under the definition of an "Involved Employee," as defined in General Order 103.10: Critical Incident Protocol. Documentation of the incident shall be completed prior to the completion of the officer's tour of duty. The report shall include, but not limited to, the following information:
  1. The events leading to the application of force.

2. Any type and extent of force used.
  3. Any injuries resulting from the use of force.
  4. Any medical treatment rendered as a result of the injuries.
  5. Any other relevant information, i.e. witnesses.
- C. The Element Commander shall review the incident in Blue Team and forward to the Use of Force Sergeant to determine if the response to resistance was within policy. If not, then the Use of Force Sergeant will recommend that the Internal Affairs Section initiate an Administrative Investigation.
- D. The supervisor shall be responsible and accountable for the investigation and submittal of all response to resistance reports.
1. All reports shall be reviewed and signed by the supervisor who responded and supervised the investigation.
  2. All reports must be reviewed and approved by the responding supervisor prior to the end of the shift. Reports shall not be passed to the next shift supervisor for review and signature.
  3. Supervisors shall ensure that the report is complete.
- E. For those incidents involving serious bodily injuries or death, refer to Article IX of this directive.

#### IX. DEADLY FORCE/SERIOUS BODILY INJURIES/DEATH INCIDENTS

An officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious physical injury.

The following procedures shall be followed when an officer uses deadly force or when the actions of an officer causes serious bodily injury or death. In addition to Article VIII, the following procedures shall be followed.

- A. Whenever the response to resistance results in death or serious bodily injury, the officer shall immediately be assigned to non-enforcement activities. The Chief of Police may authorize Administrative Leave through the Mayor's Office.
1. The Department shall conduct a criminal investigation of the incident.
  2. The Department shall conduct an administrative investigation.
  3. The administrative investigation is conducted, it will be subordinate to the criminal investigation.
  4. Counseling and support for the involved officers and their immediate families will be made available.

5. A medical health professional shall conduct an assessment prior to the officer returning to full active duty.
- B. Involved Officer.
1. Determine physical condition of any injured person and render first aid.
  2. Request medical personnel.
  3. Notify dispatch of the incident and location.
  4. Notify supervisor of the incident and location.
  5. Protect the evidentiary value of the weapon and ammunition. The officer shall protect the weapon for examination and submittal to the supervisor.
    - a. A firearm shall NOT be unloaded or inspected.
  6. In the event any involved officer is in need of extended professional counseling or treatment, the employee shall be placed on Injury Leave and the appropriate reports filed by his supervisor. In this instance, prior to returning to full duty, the employee must be granted a return to work release by an appropriate medical physician.
  7. Do not discuss the incident with anyone except the supervisor or investigator.
  8. In accordance with Article 12, Paragraph C of the collective bargaining agreement:  
**Discharge of Firearms** - Whenever a firearm is discharged at a suspect(s) by a police officer, the police officer shall not be required to submit a written incident report until the officer has had a reasonable period of time, a minimum of four hours, to consult with counsel of choice or a Union representative.
- C. Supervisor at scene. Once the scene has been adequately secured, the supervisor shall;
1. Facilitate medical assistance.
  2. Make assignments to protect the scene. Do not allow any unauthorized personnel into the scene. All personnel at the scene shall be documented in the police report.
  3. When the scene is properly secured, recover the officer's weapon, ammunition, and magazines.
  4. Transport involved officer(s) to the nearest police station.
  5. Locate, separate and detain all possible witnesses.
  6. Preserve and protect all evidence.
  7. Notify Watch Commander in District I, or the District Commander in all other Districts.
  8. An officer shall be assigned to accompany any person transported to a medical facility as a result of the incident. The assigned officer shall guard against escape,

protect the individual, and take detailed notes of voluntary statements without interviewing the person.

9. Do not discuss the circumstances of the incident with the media.
  10. Obtain a paramedic report.
- D. The ranking field officer on duty shall initiate notification procedures and coordinate with other elements of the Department as outlined in General Order 301.2 Notification of Officials in Certain Cases.
1. The ranking officer on duty shall oversee and coordinate the investigation.
  2. The Criminal Investigation Division shall be notified for the assignment of a criminal investigator.
  3. The Chief or Deputy Chief of Police shall be notified for the assignment of an administrative investigator.
  4. The Police Chaplains shall be notified for the purpose of providing officers with counseling services.

X. RENDERING MEDICAL AID

Procedures for rendering medical aid

- A. When a suspect is rendered unconscious:
1. Immediately handcuff the suspect
  2. Roll the suspect onto his back, check vital signs, open airway, etc. Apply first aid and request paramedics if needed
  3. If CPR is necessary remove the handcuffs immediately and summon paramedics. If the suspect has been in cardiac or respiratory arrest he will be transported to the hospital
- B. If an injured person is bleeding:
1. Control bleeding
  2. Prevent contamination of the wound
  3. Request paramedics if needed
- C. If the injured person has stopped breathing:
1. Assess and open the airway
  2. Restore breathing
  3. Restore circulation (CPR)

4. Request paramedics
- D. Advise other officers (including Receiving Desk Officers) and the supervisor that the suspect lost consciousness or received injuries due to the level of force applied or that a less lethal weapon was utilized on the suspect.
- E. If an incident involved the use of a conductive energy weapon (Taser), the officer shall provide appropriate medical treatment established during training.
- F. If an incident involved the use of a chemical agent, the officer shall, if possible, flush the eyes with water.
  1. The officer shall not confine the individual in a non-ventilated area.
  2. The officer shall not place the individual on his stomach.

#### XI. TRAINING

- A. All authorized personnel shall be provided with instruction as to the policy described herein.
- B. The training shall be coordinated by the Plans, Training, Research, and Development Section.

#### XII. DISPOSITION

- A. The criminal investigative report shall be submitted to the Prosecutor's Office.
- B. The administrative investigative report shall be submitted to and reviewed by the Administrative Review Board.

#### XIII. MISCELLANEOUS INCIDENTS

- A. Accidental discharges at the Firing Range(s) with no injuries, shall be handled by the Range Master on duty at that time. An informational To/From report shall be submitted to the Office of The Chief of Police.
- B. Any unintentional discharge of firearms without injury and outside the firing range shall be handled in accordance with Articles VIII of this directive.
  1. All firearms involved in unintentional discharges shall be submitted to the Plans, Training, Research and Development Section as soon as practical for a mechanical evaluation.
  2. If there are no mechanical defects, the firearm shall be returned to the officer following a re-familiarization course conducted by the Plans, Training, Research and Development Section.
  3. If there are mechanical defects, the firearm shall be retained by the Plans, Training, Research and Development Section. The officer shall be issued and qualified with a replacement firearm.
- C. A police officer may discharge his weapon to destroy an animal that presents a threat to

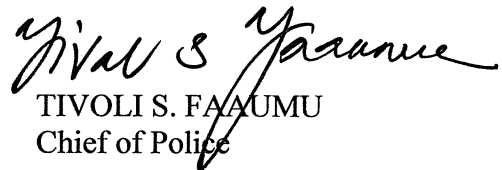


public safety, the officer, or as a humanitarian measure where an animal is seriously injured. Such discharge shall be accomplished safely with due regard to persons and property and shall be conducted in accordance with Article VIII of this directive.

- D. All unintentional discharges of a conductive energy weapon (Taser) including, arching and cartridge deployment shall be documented in a To/From report and shall be submitted to the Office of the Chief of Police.

XIV. ANALYSIS

- A. The Use of Force Sergeant shall conduct an annual analysis of all documented response to resistance incidents occurring within the reporting period.
- B. The purpose of this analysis is to:
1. Evaluate and determine the reasons and causes of these incidents;
  2. Review, update or modify Departmental rules, procedures and policies relative to use of force;
  3. Determine if any additional training is required;
  4. Make any other recommendations for consideration by the Chief of Police.
- C. In conjunction with the annual analysis, the Use of Force Sergeant shall submit a comprehensive report documenting findings and recommendations to the Chief of Police by January 31 of the following year.

  
TIVOLI S. FAAUMU  
Chief of Police

## APPENDIX A

### LEVELS OF FORCE

LEVELS OF CONTROL	TYPES OF CONTROL	RESISTANCE
COMMAND PRESENCE	Badge, Uniform, etc.	Psychological Intimidation
<p>Command presence is accomplished through the officer's appearance at a situation or through the officer's stance and mannerisms. This also includes the presence of a back-up unit.</p>		
VERBAL DIRECTION	Tactical Communication	Verbal Resistance
<p>Tactical communication is accomplished by an officer speaking with a subject in a manner which is designed to generate voluntary compliance to the law with the use of words alone.</p>		
SOFT EMPTY HAND CONTROL	Touching, "Come Alongs", Wrist Locks, Reflex Blocking, Head Support techniques, Escort Positions, Handcuffing.	Passive Resistance
<p>Soft empty hand control is accomplished by an officer using approved compliance techniques such as wrist locks taught in the Maui Police department Training Academy to gain control of the subject.</p>		
CHEMICAL AGENT / CONDUCTIVE ENERGY WEAPON	Cap-Stun/ Taser	Active or Threatened Resistance
<p>Officers may use chemical agents (CA) or a Conductive Energy Weapon if a subject is actively resisting or threatens by word or conduct that he/she will resist arrest or control. If possible it should be used prior to the use of hard empty hand control</p> <p>Officers should spray a short burst of CA at the subject's face. The subject should be handcuffed as soon as possible after being subdued, and his face kept exposed to the air and clear of obstructions. The subject's face and/or other affected areas should be washed with water as soon as possible.</p> <p>The officer maintaining custody shall monitor the condition of the arrestee for any signs of duress.</p> <p>Chemical agents shall not be used on subjects who have already been handcuffed and are in custody.</p> <p>Chemical agents shall not be utilized within the holding cells of any police station.</p> <p>Chemical agents shall not be utilized to "calm down" prisoners.</p>		

LEVELS OF CONTROL	TYPES OF CONTROL	RESISTANCE
HARD EMPTY HAND CONTROL	Take Down Techniques, Head Strikes, Arm Strikes, Leg Strikes, Ground Defense, Ground Escapes	Defensive Resistance
<p>Hard empty hand control is accomplished by an officer using approved physical restraints such as take-downs taught in the Maui Police Department Training Academy to gain control of the subject.</p>		
HARD INTERMEDIATE WEAPONS	Baton, Expandable Baton Riot Baton, Neck Restraints, Authorized weapons used Solely by SRT	Active Aggression
<p>A police baton may be used when considerable force is necessary. Passive resistance or resistance such as a prisoner refusing to enter a police vehicle, holding room, etc. is not sufficient in itself to justify using a baton. A police baton permits officers to defend themselves or others in situations where using a firearm is not justified or necessary.</p>		
<p>Officers will carry the baton when they have become certified by successfully completing instruction from a Department Arrest and defense Tactics Instructor. Officers will use the baton within the guidelines set forth by the Department and consistent with their training.</p>		
<p>The use of a flashlight as an impact weapon will be justified only under the same circumstances in which lethal force would be justified. A flashlight should be used in the same manner as a baton.</p>		
<p>Officers will not strike the head, neck, spine, sternum and kidneys.</p>		
<p>The Neck Restraint technique, should be considered as a last resort in the prevention of serious physical injury to an officer or another person.</p>		
DEADLY FORCE	Firearms, Gun Retention, Weapons Take Away / Defense, Front Neck Support (Deadly Force Option), Magazine / Handcuff Strike.	Aggravated Acting Aggression.