I PURPOSE

The purpose of this General Order is to provide officers of the McKinney Police Department with guidelines for the use of deadly and non-deadly force in response to the resistance of another person.

II PHILOSOPHY

A. It is the philosophy of the McKinney Police Department that officers use only the force that reasonably appears necessary to effectively bring an incident under control, while protecting the lives of the public and other officers. It must be stressed that the use of force is not left to the unfettered discretion of the involved officer. This is not a subjective determination. The use of force must be objectively reasonable. The officer must use that force which a reasonable, prudent officer would use under the same or similar circumstances. (6.01.1)

B. The amount and degree of force, which may be employed in attaining lawful objectives, will be determined by the totality of the circumstances, including but not limited to:
   1. The nature of the offense
   2. The behavior of the subject against who force is to be used:
      (a) Verbal dialogue
      (b) Physical resistive actions
      (c) Aggressive acts

C. Age and physical condition of the subject
D. Age and physical condition of the officer
E. Physical and environmental conditions at the scene
F. The feasibility or availability of alternative actions

III DEFINITIONS

A. Bodily Injury: Means physical pain, illness or any impairment of physical condition.
B. **Deadly Force:** State law defines “Deadly Force” as “force that is intended or known, by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.” V.T.C.A., Penal Code § 9.01(3), as amended.

C. **Deadly Weapon:** For the purpose of this General Order, the terms “deadly weapon” and “dangerous weapon” will have the same meaning, such definition being the same as listed in V.T.C.A., Penal Code, § 1.07, as amended.

D. **Electronic Control Device:** A device that uses propelled wires or direct contact to conduct energy, to affect the sensory and motor functions of the nervous system.

E. **Excessive Force:** Force is excessive when its application is unreasonable and unnecessary under the circumstances, resulting in *any* injury, serious bodily injury or death to an actor. The U.S. Supreme Court, in *Graham v. Connor*, 490 U.S. 386 (1989), established guidelines for determining whether force has been excessively applied, where the primary concern is the reasonableness of the application of force, as judged by the on-scene officer.

F. **Excited Delirium:** Also referred to as “in custody death syndrome”, is a state of extreme mental and physiological excitement, characterized by extreme agitation, hypothermia, hostility, exceptional strength and endurance without apparent fatigue. [*Morrison & Sadler, Medical Science and Law 2001; 41(1): 46]*

G. **Firearm:** Any weapon from which a projectile is forcibly ejected by an explosive or burning propellant.

H. **Force:** That amount of “active power, strength or energy” which is necessary to overcome a suspect’s physical resistance. State law provides that in making an arrest, all reasonable means are permitted to be used in effecting that arrest; however, no greater force shall be resorted to than is reasonable and necessary to secure the arrest and detention of the accused. V.T.C.A., Code of Criminal Procedure, Art. 15.24, as amended.

I. **Impact Weapon:** Any object, regardless of its original manufactured purpose, which can be utilized to strike a person with sufficient force so as to cause bodily injury, serious bodily injury or death.

J. **Less Lethal Force:** A concept of planning and force application which promotes operational objectives with less potential for causing death or serious physical injury than lethal force police tactics.

K. **Non-Deadly Force:** Force employed which is neither likely, nor intended to cause serious bodily injury or death.

L. **Objectively Reasonable:** The reasonableness of an officer’s use of force is based upon the totality of the circumstances known by the officer at the moment the force is used, and the officer’s recovery time based on the suspect’s action(s). Officers will consider the severity of the crime an issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether the suspect is actively resisting arrest or attempting to flee. This standard is based on what a reasonable officer would do under similar circumstances.
M. **Reasonable Belief**: When facts or circumstances the officer knows or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.

N. **Reasonable Force**: the amount of force deemed necessary by the officer to overcome resistance, effect a lawful arrest or any other lawful objective.

O. **Recovery**: Is the amount of time it takes to respond to change.

P. **Serious Bodily Injury**: A physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement or impairment of the function of any bodily organ or limb.

IV **NON-DEADLY FORCE**

A. Members of the department are authorized to use necessary force when they reasonably believe that force is justified to maintain the safety and security of the suspect, the officers or the public.

B. Police officers shall not unreasonably endanger the public or themselves when applying the guidelines set forth in this General Order.

C. Use of Non-Deadly Force

1. Non-Deadly Force is not designed to cause death or serious bodily injury. Deadly Force would not typically be included in those situations where only a slight degree of force is necessary to handcuff a person or conduct a search. When Deadly Force is not authorized by this General Order, officers may use only that level of force that is objectively reasonable to bring the incident under control.

2. Officers are authorized to use departmentally-approved, non-deadly force techniques and issued equipment to:

   (a) preserve the peace or to prevent the commission of offenses, suicide or serious bodily injury,

   (b) to make a lawful arrest and/or search, or overcome resistance to a lawful arrest and/or search, and/or prevent an escape from custody;

   (c) to defend the public or another officer against the unlawful violence to his/her person or property; and/or

   (d) Bring an unlawful situation safely and effectively under control.

V **DEADLY FORCE**

A. Use of Deadly Force

1. Police officers are authorized to use deadly force to protect the public, other officers, and themselves in situations where the officer has an objectively reasonable belief that there exists an immediate threat of death or serious bodily injury (6.02.1); or

2. [Blank]
3. The use of deadly force is not authorized to make an arrest for any misdemeanor offense or to protect property interests.

VI FORCE SPECTRUM

The term “force spectrum” represents a system of available options and tools an officer can use given the totality of circumstances that he/she is faced with at the given moment he/she decides to use force based on the officer’s ability to respond to change as dictated by the suspect. An officer’s response to a suspect’s or suspects’ actions are not limited to those articulated or illustrated in this General Order.

Use of Force Spectrum
VII USE OF FORCE OPTIONS

A. Physical Presence
   1. Physical presence is the identification of authority.
   2. It is accomplished through the officer’s appearance at a situation. This may also include the presence of a back-up unit.

B. Verbal Persuasion
   1. Verbal persuasion is verbal commands from an officer to a person to gain voluntary compliance.
   2. It is accomplished through the officer’s dialogue (talking) with a subject, resulting in the officer controlling the subject and/or the situation.

C. Hand Control Techniques:
   1. When objectively reasonable, officers are authorized to use Hand Control Techniques.
   2. Hand Control Techniques include, but are not limited to: joint, locks; pressure points; Mechanical Advantage Control Holds (“M.A.C.H.”); strikes/distraction techniques, as taught in accordance with recognized methods to gain compliance and control both combative and noncompliant people.

D. Oleoresin Capsicum Spray/Chemical Agents
   1. When objectively reasonable, officers are authorized to use Oleoresin Capsicum (“OC”) spray and or chemical agents issued by the department.
   2. Only officers completing an approved OC Spray/Chemical Agents training curriculum will be allowed to carry and use these less-lethal options.
   3. OC may be used when force is necessary to subdue individuals who are resistive to the officer’s physical presence and verbal commands.
   4. OC/Chemical agents may be used for crowd control and/or riot situations.
   5. The OC agents should not be used on a properly restrained prisoner unless the prisoner is presenting an immediate danger to himself or others.
   6. All departmental OC agents will be Electronic Control Devices (“ECD”) compatible.
   7. The department shall conduct OC agent/ECD compatibility test as needed and at the direction of the Chief of Police.

E. Electronic Control Devices
   1. When objectively reasonable, officers are authorized to use department approved ECDs and related equipment.
   2. Only officers completing approved ECD training will be issued and allowed to carry ECDs and related equipment.
3. Officers are responsible for ensuring their assigned ECD is in working order before use.

4. ECDs should not be used on a properly restrained prisoner unless the prisoner is presenting an immediate danger to himself or others.

F. Intermediate Weapons

1. Baton/Impact Weapon

   (a) When objectively reasonable, officers are authorized to use a department approved baton/impact weapon.

   (b) The only approved baton/impact weapon is an ASP expandable baton.

   (c) Only officers completing departmentally-approved baton/impact weapon training provided by a certified ASP baton instructor will be allowed to carry and use this physical force option.

   (d) Officers will not intentionally strike the head, neck, sternum and/or spine which could cause severe injury unless Deadly Force is authorized by this General Order.

   (e) Officers should avoid intentionally striking areas of the body, to include the groin, kidneys, elbows, and knees, where such impact could cause serious bodily injury unless the use of force by the subject justifies striking these areas.

   (f) Situations where a subject is exhibiting passive resistance, such as a prisoner refusing to enter a vehicle, holding room, etc., is not sufficient in itself to justify the use of a baton/impact weapon.

   (g) The use of a flashlight as an impact weapon is prohibited, except in those situations where deadly force is justified.

   (h) Firearms will not be used as an impact weapon, unless deadly force is authorized.

   (i) Use of a police baton or any other instrument in such a manner as would likely cause death or serious bodily injury is prohibited, except in cases where use of Deadly Force is authorized by this General Order.

2. Extended Range Impact Weapons

   (a) When objectively reasonable, officers are authorized to use Extended Range Impact Weapons (“ERIW”).

   (b) The availability of a less lethal ERIW, such as a bean bag round or 37/40mm impact rounds, can greatly assist in the de-escalation of potentially violent confrontations and provide additional alternatives to the use of deadly force.

   (c) Another officer capable of using deadly force to protect the public and other officers shall accompany officers deploying or using an ERIW.

   (d) Officers deploying an ERIW shall be accompanied with lethal cover.
(e) ERIWs may be discharged at a suspect as an alternative to deadly force by an officer who reasonably believes that the use is necessary to defend themselves or others from imminent bodily injury or death. This includes the prevention of suicidal subjects from harming themselves or others.

(f) Deployment of an ERIW should be at the direction of a supervisor unless it is reasonably likely that failure to take immediate action would result in injury or death to a citizen or officer.

(g) ERIWs are not accurate, potent, or reliable enough to become a replacement for deadly force in all situations where officers or a third person is under attack by a suspect and defending themselves from deadly force. ERIWs are intended to disarm or momentarily incapacitate a suspect to hopefully prevent the application or use of deadly force. Officers should not put themselves or innocent persons at greater risk by relying on ERIWs in some situations.

(h) Specific patrol weapons will be designated/dedicated for use with ERIWs.
   1. These patrol weapons will be 12 gauge, pump-action shotguns and will be clearly marked with orange fore and butt stocks.
   2. These designated shotguns will have a decal affixed to the stock that illustrates the effective range of the department approved projectile and the approved impact zones.
   3. Only less lethal projectiles will be deployed from these designated weapons.

3. Prohibition

   The use of any police defensive weapon not authorized in this General Order (Saps, Sap Gloves, Slappers, etc.) is prohibited and will result in disciplinary action.

G. Cord Restraints

1. Cord restraints will only be used on combative suspects who have already been handcuffed. The cord restraint will only be used around a suspect's legs or ankles.

2. The cord restraint will not be used around a suspect's neck, or in any fashion that could cause serious bodily injury to a suspect.

3. Cord restraints shall not be used to tie a suspect's hands and feet together.

4. Cord restraints can only be used to secure the suspect's legs together with one end secured to the vehicle.
   (a) The suspect should remain in an upright, seated position, if possible.
   (b) The suspect should not remain unattended for any period of time unless emergency circumstances exist.
   (c) If there are any signs of illness or injury the suspect should receive medical treatment as soon as possible.
H. Firearms

1. The policy of this Department permits the drawing or displaying of firearms when:

   (a) An officer, in the exercise of sound judgment, has reason to fear for his/her own personal safety and/or the safety of others this includes, but is not limited to, the search of a building for a burglar, a robbery in progress, felony traffic stop); or

   (b) The offender is suspected of having a deadly weapon in his possession and such suspicion is based upon facts and circumstances which would normally and reasonably lead one to suspect the offender has a deadly weapon. The intent of this provision is to permit the officers to protect themselves and others and to avoid the necessity of an officer actually having to use a firearm because the advantage rests with the officer holding his/her weapon.

I. This General Order specifically forbids the:

1. Firing of firearms or use of any Deadly Force in situations where the use of Deadly Force is not authorized by this General Order.

2. Firing into buildings or other places where offenders are suspected of hiding. The only exception to this will be those instances where there is no doubt of the offender's location and when Deadly Force or intended Deadly Force is being directed from that location at the officer or others.

6. Shooting of animals, fowl, or other objects unless officers or other persons are in imminent danger of death or serious bodily injury, or with specific approval of a supervisor.

7. The pointing of a firearm at a suspect known to be unarmed, and who is not an immediate danger to the officer or others.

8. The carrying, drawing or displaying of a firearm with the hammer in a "cocked" position. The exception to this prohibition is a .45 caliber automatic pistol or other pistol intended to be carried in this fashion (i.e. Browning Hi Power). These weapons may be carried, drawn or displayed in a "cocked" position in accordance
552.108(b)(1)

with this General Order, provided that the safety device is in the “safety position” until such time the weapon is to be fired.

9. Discharging of firearms or the use of any deadly force to protect property interests.

10. Use of deadly force or discharging of firearms without firsthand knowledge of crime elements in an alleged offense. Officers are not to rely solely on third person reports as the sole basis for use of deadly force.

11. Officers will not voluntarily place themselves in a position in front of an oncoming vehicle where deadly force is a probable outcome. When confronting an oncoming vehicle, officers will move out of its path, if possible, rather than fire at the vehicle.

12. This section is not meant to apply to the legal discharging of firearms by officers who are engaged in departmental firearms qualification, target practice, hunting or other activities in which the discharging of a firearm is in accordance with the law and this General Order.

VIII MEDICAL AID

Officers shall summon EMS in all cases where the officer’s response to a suspect’s resistance results in an injury to the suspect or the suspect claims to be injured. (6.07.1)

IX USE OF POLICE VEHICLES AS A WEAPON

X SURRENDER OF WEAPON

Officers are strongly discouraged from ever surrendering their weapon(s) to anyone who may be holding someone as a hostage or is a suspect in criminal activity. The ultimate decision must be made by each individual officer involved based upon the totality of circumstances that surround the incident.

XI RESPONSE TO RESISTANCE REPORT (RTR)

A. A Response to Resistance report (RTR) detailing an officer’s response to a suspect’s or suspects’ actions will be completed when:

1. The actions of the officer results in the injury or death of another person,

2. The actions of the officer allegedly result in the injury or death of another person,

3. The officer uses their OC spray, an impact weapon (to include ERlwS), or an ECD,
4. Discharge of a firearm, and
5. Any other time deemed necessary by a supervisor

B. An officer, upon learning of the injury or death of any subject resulting from force used, will immediately make a verbal report to their supervisor or an on-duty supervisor by calling the supervisor to the appropriate location.

C. RTRs will be submitted prior to the end of the shift or assignment of the involved officers, or at the discretion of the Chief of Police.

D. The RTR should contain information detailing the type of response used and the subsequent results of that response, such as types of injuries and any medical treatment required.

E. An inquiry will be conducted to determine (6.03.1):
   1. If the officer’s response complied with State law and this General Order.
   2. If the officer’s actions were reasonable and prudent given the totality of the circumstances.
   3. If the officer’s use of force indicates a need for special counseling and/or training, and
   4. Whether the situation requires further action.

F. The RTR will be forwarded through the employee’s chain of command, to the level of Division Commander, for review.

G. RTRs will be maintained by the Office of Internal Affairs.

H. The Deputy Chief of the Professional Standards Division shall submit quarterly and annual reports (6.10.0) to the Chief of Police outlining:
   1. The total number of RTR submitted within the specified timeframe.
   2. The outcome of each RTR
      (a) Training needs,
      (b) Procedural needs, and
      (c) Equipment needs.
   3. The quarterly RTR reports will be reviewed by the Training Advisory Board (TAB) at least every six months
   4. The annual RTR report will forwarded to the TAB for recommendations.

I. The final review and decision for taking any action rests with the Chief of Police.

XII INITIAL NOTIFICATION OF DEADLY FORCE INCIDENTS

A. Upon receiving communication that an employee has been involved in a deadly force incident, as detailed herein, Department employees are responsible for ensuring that the Chief of Police is informed of the incident as soon as practical.
B. Additional required notification and call-out procedures will be addressed in respective General Orders.

XIII TRAINING

A. Biennial In-service Training (3.04.1)

All sworn personnel shall be trained biennially (once every two years) on the following force options:

1. Hand Control Techniques,
2. OC Agents,
3. Intermediate Weapons (Impact)
   (a) Only those sworn personnel carrying approved ASP batons or other hand held impact weapons will be required to attend the annual training.
   (b) The Chief of Police or his/her designee must approve additional exceptions.

B. Annual Training (3.02.1)

1. All sworn personnel shall be trained annually in deadly force options including but not limited to:
   (a) handguns,
   (b) rifles, and
   (c) shotguns
2. ECDs

XIV POLICY RESTRICTION

A. The restrictions of this policy shall not apply in the event that an off-duty officer acts within the provisions of current state statutes to protect the employee’s personal property. In this case, the officer is acting as a private citizen.

B. This directive is for departmental use only and does not apply in any criminal proceeding. The departmental policy shall not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions.

XV GENERAL PROVISION

A. Any previous directive, rule, order, policy, or regulation that pertains to this subject matter and its amendments shall remain in full force and effect prior to the effective date of this General Order.

B. If any section, sentence, clause or phrase of this General Order is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this General Order.

C. The effective date of this General Order is stated in the header block.
D. Any reference made in this General Order to any other law, statute, code, ordinance, rule or regulation is intended to incorporate such material as it presently exists and also any future amendments, changes, revisions, repeals, or recodifications of such material, unless otherwise expressly provided.

[END]