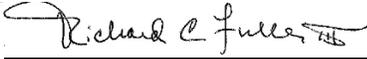


Kalamazoo County Sheriff's Office 	Written Directive		No.	1.0.9
	Subject	RESPONSE TO RESISTANCE (USE OF FORCE)		
	Effective Date	01/04/2006	Authorized By	
	Revision Date	01/20/2021	Sheriff Richard C. Fuller, III	
	Reviewed Date	01/20/2021		

CONTENTS

I. PURPOSE..... 1

II. POLICY 2

III. STATUTORY REQUIREMENTS 2

IV. AUTHORIZED USE OF LESS-LETHAL RESPONSE TO RESISTANCE 2

V. MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS (MCOLES) 3

VI. SUBJECT CONTROL CONTINUUM 3

VII. MEDICAL CONSIDERATIONS..... 7

VIII. AUTHORIZED LESS-LETHAL WEAPONS 8

IX. REPORTING USE OF LESS-LETHAL RESPONSE TO RESISTANCE 20

X. DOCUMENTING RESPONSE TO RESISTANCE..... 21

XI. VIOLATIONS OF POLICY 23

XII. POST INCIDENT ANALYSIS..... 23

XIII. AUTHORIZED USE OF DEADLY RESPONSE TO RESISTANCE 24

XIV. AUTHORIZED FIREARMS 25

XV. FIREARMS AND RESPONSE TO RESISTANCE TRAINING 25

XVI. HANDLING AND CARE OF FIREARMS 26

XVII. FIREARM DISCHARGE INVESTIGATION..... 26

XVIII. POST-TRAUMA AFTERCARE PROCEDURES 27

XIX. PROTECTIVE BODY ARMOR 29

XX. DEFINITIONS 29

XXI. SUMMARY 34

I. PURPOSE

This written directive establishes policy and procedure regarding the acceptable response to resistance by the sworn personnel of the Kalamazoo County Sheriff's Office (KCSO). The primary mission of law enforcement officers is to protect human lives, including their own. This directive is more restrictive than State law and specifically addresses the conditions that must be present before the response of resistance by KCSO personnel.

II. POLICY

KCSO personnel shall use only objectively reasonable response to resistance to overcome the resistance offered to affect a lawful arrest and/or accomplish the lawful performance of duty in protecting the public. This shall include response to resistance up to and including deadly response to resistance.

The use of unreasonable, unnecessary or excessive force/response to resistance is prohibited.

Once an individual is fully under control, then the force used/response to resistance must terminate.

Personnel are required to intervene to prevent or stop the known and apparent use of excessive force/response to resistance by another officer when it is objectively reasonable to do so.

Personnel are required to provide care for persons in our custody.

Violations of this policy may result in disciplinary action, up to and including, termination of employment.

III. STATUTORY REQUIREMENTS

This written directive is intended to meet or exceed the legal requirements as established by the Constitutions of the United States and the State of Michigan, Federal, State and applicable case law.

Case law related to the use of force and or the response to resistance include:

Graham v Connor, 490 U.S. 386, 104 L. Ed. 2d 443, 109 S. Ct. 1865 (1989)

Tennessee v Garner, 471 U.S. 1, 85 L. Ed. 2d 1, 105 S. Ct. 1694 (1985)

Goodwin v. City of Painesville 781 F.3d314 (6th Cir. 2015)

Case law related to the use of a Taser/Conducted Energy Weapon (CEW), previously known as an Electro-Muscular Disruption Weapon include:

Gradisher v. City of Akron, 794 F.3d 574, (6th Cir. 2015)

Kent v. Oakland County, 810 F.3d 384, (6th Cir. 2016)

Corey Hill v. Miracle 5th Circuit, (April 4, 2017)

IV. AUTHORIZED USE OF LESS-LETHAL RESPONSE TO RESISTANCE

The application of a necessary amount of less-lethal response to resistance may be used in the following situations:

- A. An officer is met with physical resistance, verbal obstruction or interference while making an arrest, executing a warrant, conducting a search, transporting or processing a prisoner, or otherwise enforcing the law.

- B. An officer is met with physical resistance, verbal obstruction or interference when immediate control of a scene is essential to maintaining and preserving the peace.
- C. An officer is assaulted.
- D. Another officer or other person is assaulted.
- E. To control the attack or menacing of animals against officers, other persons, or property.

V. MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS (MCOLES)

The **MCOLES** Subject Control Continuum shall be the system of less-lethal response to resistance utilized by the Kalamazoo County Sheriff's Office.

- A. The *Support Division* shall be responsible for scheduling annual training on the Subject Control Continuum. Firearms, baton, chemical agent, Subject Control Techniques, Taser, PepperBall, and driving instructions will incorporate the Subject Control Continuum into their training sessions, as appropriate.
- B. Subject control training shall include classroom instruction as well as the use of scenarios to create realistic situations. The training is intended to allow officers to learn and practice techniques and to display their proficiency with the various defensive tactics.
- C. Instruction topics will include the use of verbal commands, empty-hand subject control and defensive tactics (including pressure point and joint lock techniques), the use of ASR spray, batons, Taser, PepperBall, and firearms.
- D. Training on civil disorder and crowd control techniques will be offered periodically. This training will include the proper use of riot helmets, gas masks, and other issued equipment. This training may be offered on-line or in-person.
- E. The Support Division shall be responsible for documenting the Subject Control Continuum training and appropriate records shall be delivered to and maintained by the *Support Division* after each training session.

VI. SUBJECT CONTROL CONTINUUM

- A. The Subject Control Continuum defines the levels of subject resistance and the levels of control an officer may use. (See Appendix A).
- B. Officers shall recognize the following types of subject resistance.
 1. **Inactive Resistance**: Resistance that may include psychological intimidation and/or verbal resistance (e.g., blank stare, clenching of

fist(s), tightening of jaw muscles, etc.). The subject complies with verbal attempts at control, but displays visual and verbal cues that indicate potential physical resistance.

2. **Passive Resistance:** Any type of resistance whereby the subject does not attempt to defeat the officer's attempt to touch and control the subject, but still will not voluntarily comply with verbal and physical attempts of control (e.g., dead weight, does not react to verbal commands, etc.). The subject will not comply with verbal attempts at control and will not fully comply with physical attempts at control. Passive and inactive resistances are very close in description. The subtle difference is in non-compliance with verbal or physical attempts at control.
3. **Active Resistance:** Any action by a subject that attempts to prevent an officer from gaining control of the subject (e.g., pulling/pushing away, blocking, etc.). There is an overt attempt to defeat the officer from gaining control (e.g., handcuffing). It is not an attack on the officer but a physical act (often accompanied by verbal statements) to prevent the officer from gaining control. In the case *Goodwin v. City of Painesville* 781 F.3d314 (6th Cir. 2015) the court defined Active Resistance as noncompliance combined with another manifestation which could be either physical or verbal. Passive Resistance alone is never constitutionally acceptable. Subjects actively resisting an officer can be very dangerous. They can suddenly escalate to active aggression as the officer escalates response techniques. The situation now becomes tense, uncertain, and rapidly evolving, and an appropriate, effective and immediate response is required. Individual officers may have a different response to the same situation based upon the totality of circumstances (e.g., relative size/stature of officer/subject, response controls available, and ability).
4. **Active Aggression:** Physical actions/assaults against the officer or another person with less than deadly response to resistance (e.g., advancing, challenging, punching, kicking, grabbing, wrestling, etc.) Subjects may also be actively aggressive towards a third party (e.g., another officer or civilian).
5. **Deadly Response to Resistance Assault:** Any response to resistance used against an officer and/or another person that may result in great bodily harm or the loss of human life. It is located at the narrow end of the continuum and highlighted by the dark color shading (Appendix A). Injury potential to the officer or others is extremely high. A deadly response to resistance assault leaves little room for officer response options. An immediate response that will stop the assault and neutralize the threat is needed.

C. Types of Officer Response:

1. **Officer Presence/Verbal Direction:** Identification of authority (i.e., uniformed presence or identification as a sworn officer), verbal direction (e.g., for arrest or to control subject's movements), use of restraint devices (i.e., compliant handcuffing). Generally, most subjects comply with verbal direction and the officer's presence. Most officer/subject arrests/confrontations occur at the lower (wider) end of the continuum. Even though injury potentials is low and the arrest/contact may seem "routine", officers must remain alert and ready for any sudden change in escalation of resistance.
2. **Compliance Controls:** Soft empty hand techniques (e.g., joint lock, pressure points, etc.) and compliant control devices (e.g., baton, ASR spray, PepperBall, or Taser) when used as a compliance control device inflict pain and are used for the purpose of gaining control of a subject. They are used when verbal directions/commands are not effective and there is non-compliance with lawful orders. They have application where the subject's actions include passive resistance.
3. **Physical Controls:** Hard empty hand techniques (e.g., strikes, take downs, etc.).
 - a. Physical controls have application where the subject's action includes active resistance. Depending on the totality of circumstances and the severity of the resistance, the officer may deploy any KCSO authorized technique that is a reasonable response.
 - b. As with any officer response to a subject's action, verbal direction/commands should be used when feasible. Even though hard empty hand techniques could be appropriate, a joint lock with verbal commands may suffice. As subject action increases in severity, officers have the entire spectrum of response controls available to them. The officer must make the determination which one to use based upon the circumstances, controls available, and ability. As the situation deteriorates, many options may be available, but there may be only one reasonable and appropriate response that will protect the officer and control the subject.
4. **Aerosol Subject Restraint (ASR) Spray:** ASR Spray has application where the subject's actions constitute active resistance or active aggression, or when the officer reasonably believes lower forms of empty hand controls will be inadequate.

5. **Intermediate Controls:** (i.e., impact weapons) are justified when lower forms of empty hand control have failed, or when the officer believes that his/her skill in empty hand control will be insufficient. Examples of intermediate weapon use justification:
 - a. To control active aggression or an assault on an officer or another.
 - b. To control active resistance when previous forms of empty hand control techniques or ASR spray have failed, or when the officer/subject variables would clearly demonstrate that using empty hand control techniques would be dangerous to the officer and potentially escalate subject resistance.
 - c. The use of an intermediate weapon when used as a striking instrument is prohibited against subjects in inactive or passive resistance.
 6. **Deadly Response to Resistance:** Any response to resistance used by an officer that may result in great bodily harm or the loss of human life. Officers must have working knowledge of KCSO policy regarding the response to resistance, especially in the use of deadly response to resistance.
- D. Variables that affect the response to resistance continuum: The officer should consider the following variables when making a decision to escalate or de-escalate the level of control:
1. Officer/subject size, physical abilities, and weapons involved.
 2. Environmental conditions, such as confined or remote areas.
 3. Reason officer has come into contact with subject.
 4. Exigent circumstances such as, ratio of officers to subjects, or availability of backup.
 5. Reaction time: the officer must consider that action is faster than reaction, thus the officer must pay attention to the above factors when preparing for a course of action.
 6. Reactionary gap: officers should be cognizant of, and utilize, whenever possible, a reactionary gap during all law enforcement contacts. The reactionary gap is a safety zone between the officer and subject, which affords the officer more time to react to aggression. This zone averages a distance of six feet but varies based on the above (1-5). The officer always has two "reactionary

options" available: (1) penetrate the gap and attempt control, (2) disengage to create distance.

VII. MEDICAL CONSIDERATIONS

- A. Any visible injury or complaint of injury shall result in the injured party being examined by the Sergeant/OIC and/or being transported to a medical facility for examination and treatment.
- B. Any officer having observed or received a complaint of injury shall be responsible for insuring that said medical examination and treatment, if necessary, is provided.
- C. **Officers should be aware that:**
 - 1. Decontamination for subjects, officers, and the area may be required.
 - 2. Subjects exhibiting signs of disproportionate stress for the circumstances should be transported to a medical facility for treatment.
 - 3. Subjects exhibiting one or more signs that are associated with sudden in- custody death (e.g., shouting, paranoia, naked or disrobing, panic, bizarre, aggressive, violent behavior, use of drugs/alcohol, unexpected physical strength, obesity, sudden tranquility, ineffectiveness of chemical agents, etc.) **may require close monitoring**. NOTE: 14% of the population is unaffected by chemical agents.
 - 4. Positional asphyxiation situations may occur where direct pressure or body positioning is created that inhibits an individual's breathing. In this situation where a subject is taken to the ground and is being restrained breathing must always be monitored. Any pressure on the subject's torso and abdomen must be removed and the person rolled on to the side "as soon as the subject is restrained and it is safe to do so, even if the subject is continuing to struggle." Any indication of breathing difficulty **shall require the deputy to roll the subject over to the side or sit them up and call Emergency Medical Services (EMS) immediately**. If the subject states they are having difficulty breathing **they are to be believed** and placed on their side or in a sitting position.
 - 5. Medical personnel, correction officers, or officers who assume responsibility for the subject or custody of the subject need to be notified of the nature of the response to resistance used (e.g., ASR spray, Taser, PepperBall, strikes) to gain control.

D. Additional Considerations:

1. Weapons other than firearms can be instruments of deadly response to resistance (e.g., a flashlight blow to the head could result in great bodily harm or death).
2. Officers must be aware that a motor vehicle can be viewed as an instrument of response to resistance. Intentional collisions, partial or complete roadblocks, or other similar methods, techniques, or actions have been ruled to be the response to resistance.
 - a. "Boxing in" movements and so-called "rolling roadblocks" create a high probability of contact between the officer(s) and subject's vehicle. As a result, these techniques may also be considered a response to resistance.
 - b. The use of any such methods, techniques or actions must be justifiable and in accordance with the KCSO Vehicle Operations directive.
3. Choke holds and neck restraints are prohibited except in those situations where the use of deadly force is allowed by law. Choke holds and neck restraints are not part of the KCSO training curriculum.
4. **"Last Resort"** situations may occur where certain, immediate, and drastic measures must be undertaken by an officer in order to protect human life. Response to resistance used in these situations may involve the use of techniques or weapons not specifically authorized by this directive or listed on the continuum (e.g., neck restraint, striking with flashlight, etc.). These situations will also be evaluated by the "objectively reasonable" response to resistance standards.

E. Intermediate Weapons

Whenever the baton, ASR spray, PepperBall, Taser, or other intermediate weapon is used on a subject, careful consideration should be given to charging the subject with the appropriate criminal offense. There are, of course, exceptions to this general guideline. One of these could be when response to resistance is used to subdue a violent person experiencing a mental disorder.

VIII. AUTHORIZED LESS-LETHAL WEAPONS

The baton, ASR spray, PepperBall, and Taser, described herein, shall be the only KCSO approved less-lethal weapons. When dictated by circumstances, officers may use any implement as deemed necessary by the officer, provided the

implement is utilized in accordance with KCSO policy and training. Sworn personnel, while acting in their official capacity, are authorized to possess and use:

A. KCSO Approved Baton:

1. Prior to carrying and/or using the baton, the officer shall complete training to demonstrate competency in KCSO approved subject control training.
2. The baton shall be used consistent with the provisions of this directive and utilizing only approved techniques.
3. The baton must remain unaltered and that of a commercial manufacture as specified by KCSO.
4. Continued authorization to carry/use a baton is contingent upon successful completion of training.
5. Sworn personnel who fail to complete the required training and/or failed to demonstrate the required level of competence in KCSO approved subject control training are prohibited from carrying/using the baton until such time as further training is satisfactorily completed and required competence is demonstrated.
6. Law Enforcement Division and Transport personnel may carry approved batons in the approved retaining device on the uniform duty equipment belt or as authorized.

B. Aerosol Subject Restraint (ASR) Spray:

1. Authorization:
 - a. Only officers who have completed the KCSO or MCOLES Academy prescribed course of instruction on the use of ASR may carry the device.
 - b. Officers whose normal duty assignment may require them to make arrests or supervise arrestees may carry KCSO authorized ASR while on-duty.
 - c. Patrol officers working in the Operations Division may carry the ASR canisters in the prescribed manner on their duty belt. Non-uniformed officers may carry ASR in alternative devices as authorized.
 - d. Deputies and Corrections Deputies assigned to the Jail Division shall not routinely carry ASR on his/her person, **but**

may upon Sergeant/OIC direction, utilize the ASR as the totality of the circumstances require.

2. Deployment Criteria:

- a. ASR spray is considered a response to resistance and shall be used in a manner consistent with the Subject Control Continuum. ASR spray, baton, PepperBall, and Taser, are response to resistance options which are considered to be in the intermediate weapon category in the Subject Control Continuum.
- b. ASR may be used when verbal dialogue and/or empty hand techniques have failed to bring about the subject's compliance, or the officer believes that using ASR is the most practical or safest method to subdue the subject.
- c. Whenever practical and reasonable, officers should issue a verbal warning, with loud verbal commands, prior to ASR spray deployment.
- d. Officers may use deadly response to resistance to protect themselves from the use or threatened use of ASR when they reasonably believe that deadly response to resistance will be used against them if they become incapacitated.

3. Deployment Procedure:

- a. Whenever possible, officers should be upwind from the suspect before using ASR and should avoid entering the spray area.
- b. An officer should maintain a safe distance from the suspect of between three and ten feet. Only in extreme situations should ASR be used less than 36" from the suspect.
- c. Multiple half second bursts of spray should be directed at the subject's eyes, nose, and mouth. Additional bursts may be used if the initial or subsequent bursts proves ineffective.
- d. Use of ASR should be avoided, if possible, under conditions where it may affect innocent bystanders and/or fellow officers.

4. Effects of ASR and officers' response:

- a. Within several seconds of being sprayed by ASR, a subject will normally display symptoms of temporary blindness,

difficulty breathing, burning sensation in throat, nausea, lung and/or impaired thought processes.

- b. The effects of ASR vary among individuals; therefore, all suspects shall be handcuffed as soon as possible after being sprayed. Officers should also be prepared to use other means to control the suspect. If necessary, other response to resistance options consistent with KCSO policy may be utilized.
- c. Suspects who have been sprayed should be monitored continuously for indications of medical problems and shall not be left alone while under the effects of the ASR spray.
- d. Officers should provide assurance to suspects who have been sprayed that the effects are temporary and encourage them to relax.
- e. Air, will normally being reducing the effects of ASR spray within 15 minutes of exposure. Once the suspect has been restrained, officers shall assist the suspect by rinsing (with water when practical) and drying the exposed area, providing the suspect is cooperative. In lieu of rinsing with water, decontamination wipes are also available for the officers to use. (Decontamination wipes are available from the quartermaster upon request.) **If, after 45 minutes, the suspect has not sufficiently recovered, the suspect shall be transported to the hospital.**

C. PepperBall System:

1. Authorization:

- a. Only officers who have completed the PepperBall System's prescribed course of instruction may carry and use the system.
- b. Officer's whose normal duty assignment requires them to make arrests, supervise arrestees, or respond to civil disturbances may carry the PepperBall System while on duty.
- c. PepperBall Systems assigned to the Operations Division shall be distributed to each side of the County.
- d. Jail personnel shall store the PepperBall System in the Control Center on the linear side of the jail, in the Sergeant's Office in the Annex/Intake area, and in the Transport Office at the Michigan Avenue Courthouse.

2. Deployment Criteria:

- a. The PepperBall System is considered a response to resistance and shall be used in a manner consistent with the Subject Control Continuum. The PepperBall System, ASR spray, Taser, and the baton, are response to resistance options, which are considered to be in the intermediate weapon category in the Subject Control Continuum.
- b. PepperBall may be deployed when verbal commands are ignored and the officer feels deployment is the safest and most practical way to gain compliance.
- c. Jail personnel must receive authorization from the Sergeant/OIC prior to the deployment of the PepperBall System and when practical, deployment shall be documented using the handheld video camera.
- d. In-custody individuals who are recipients of the PepperBall System shall be photographed. Medical Staff shall be notified of those subjects who have been struck by OC PepperBall. An examination shall be conducted upon request.
- e. Non-vital areas such as arms, chest, or legs shall be the target areas for deployment. It is recommended that a four (4) to ten (10) round burst be utilized during deployment or until it is determined the PepperBall System is effective.
- f. A written report and a Response to Resistance Summary shall be prepared whenever the PepperBall System has been deployed.

3. PepperBall System Maintenance

Only those officers who have attended the Jaycor PepperBall training are authorized to maintain the PepperBall System. The PepperBall System will be inspected every three (3) months or after 2000 rounds have been fired to ensure it is in serviceable condition.

D. Conducted Energy Weapon (CEW) also known as a Taser:

This procedure provides the general guidelines for the use of a Conducted Energy Weapon, herein referred to as a CEW or Taser.

1. Issuance and Recording of Taser:

- a. Officers shall only carry and deploy a KCSO issued or authorized Conducted Energy Weapon.

- b. Officers may only deploy KCSO issued Taser cartridges.
 - c. A record of the cartridge serial number shall be recorded with issuance of each Taser. The Evidence Sergeant shall keep the cartridge log up to date. This log is subject to periodic audits.
2. Training and Certification:
- a. Only officers who have successfully completed KCSO training may carry or deploy the Taser.
 - b. An annual mandatory re-certification program shall be successfully completed in order to carry or deploy the Taser.
3. Deployment Considerations:
- a. The Taser shall only be used while performing official duties.
 - b. Subject Control Continuum modification. Tasers have application where the subject's actions constitute **active resistance or active aggression.**
 - c. The decision to use the Taser is based upon similar criteria an officer utilizes when selecting to deploy other less-lethal response to resistance options. The decision must be made dependent on the actions of the subject(s) or threat facing the officer(s) and the totality of the circumstances surrounding the incident. **The use of the Taser must be reasonable and necessary.**
 - d. In *Gradisher v. City of Akron* 794 F.3d 574 (6th Cir. 2015) the court ruled that the **failure to warn a suspect before deploying a Taser** will have "great weight" in determining reasonableness. Accordingly, officers shall provide a warning to a suspect prior to deploying the Taser as long as it is safe to deliver such a warning and there is opportunity to do so. Additionally, when a person is subject to a legitimate arrest, they are to be told that they are under arrest, *Kent v. Oakland County.*, 810 F.3d 384 (6th Cir. 2016).
 - e. The Taser may be deployed in situations when a subject's conduct is threatening and the subject could reasonably be expected to injure themselves, an officer, or others, and other means of controlling the subject are not reasonable.
 - f. The Taser may be deployed when factors indicate the officer, subject or citizens would be endangered by the use of other

response to resistance alternatives as long as the subject is demonstrating active resistance or higher level of resistance. "Other" means lesser or equal response to resistance options that may be ineffective due to the danger existing to the officer, subject, or others.

- g. The Taser shall not be intentionally aimed at the subject's head, neck or groin area.
 - (I) The recommended point of aim for front shots is the beltline to lower extremities.
 - (II) Never intentionally target the chest with CEWs to reduce the risk of affecting the heart.
 - (III) Close-spread CEW discharges to the front of the body are more effective when at least one probe is in the major muscles of the pelvic triangle or thigh region.
 - (IV) Back shots remain the preferred area when practical. We believe this recommendation will improve the effective use of the Taser while also increasing safety margins.
- h. The Taser shall never be deployed punitively or for purposes of coercion. It is to be used as a method of averting a potentially injurious or dangerous situation.
- i. Any repeated Taser deployment **must be justified** and the criteria used to re-deploy clearly documented in the officer's report.
- j. Prior to Taser deployment, the officer has the responsibility to visually and physically confirm that the instrument selected is a Taser and **NOT** a firearm.
- k. To avoid sympathetic fire, immediately prior to Taser deployment, the deploying officer should announce in a loud, clear and commanding nature, "TASER, TASER, TASER!" This announcement should be made only if it would not endanger any officer(s), the subject, or civilians.
- l. The Taser has the ability to ignite flammable liquids. Taser shall not be deployed at subjects who are in contact with flammables, in environments where flammables are obviously present or after (alcohol- based) ASR exposure. Personnel should be aware of this when in known clandestine lab environments or hospitals.

- m. Proper consideration and care should be taken when deploying the Taser on subjects who are in an elevated position or in other circumstances where a fall may cause substantial injury or death. Officers must be prepared to justify such a deployment.
- n. Taser should not be deployed upon a known pregnant female.
- o. All Taser training shall be performed in a controlled environment and presented by a KCSO approved instructor utilizing approved training methods. Self-testing under the guise of training is prohibited.
- p. The Taser shall **NOT** be deployed on a fleeing person except when the subject could reasonably be expected to injure themselves, an officer, or others if allowed to escape.
- q. Any Taser deployment contrary to this directive and procedure may result in the revocation of the officer's right to deploy the Taser, and may subject the officer to disciplinary action.
- r. When conducting the community care taking function by placing subjects into protective custody or whenever a subject is being taken into "custody" (significantly depriving them of movement or freedom) but are not being placed under arrest, then the following questions can be used as a guide to determine if the Taser is an appropriate response to resistance option. If the answer to questions 1 and 2 are "yes" and the answer to question 3 is "no" than officers are entitled to qualified immunity for utilizing the Taser in non-Graham v. Conner situations **Corey Hill v. Miracle 5th Circuit, April 4, 2017**.
 - (I) Was the person experiencing a medical emergency that rendered him incapable of making a rational decision under circumstances that posed an immediate threat of serious harm to himself or others?
 - (II) Was some degree of force reasonably necessary to ameliorate (to make something bad better) the immediate threat?
 - (III) Was the force used more than reasonably necessary under the circumstances i.e. was it excessive?
- s. Taser has identified 15 seconds of continuous or total Taser exposure as a significant safety point, therefore any exposure

that exceeds 15 seconds may be considered gratuitous and therefore excessive unless there are articulable facts to support exceeding the recommended 15 seconds of exposure (e.g., type of crime committed or attempted, multiple subjects/officers, relative strength of officer and subjects, etc.).

- t. A Taser shall never be deployed on a restrained subject who no longer poses a safety threat, flight risk, and/or is not resisting arrest. Simply not following commands is not a justification. The safety risk must be ongoing.
4. Responsibilities after deployment:
- a. Immediate action should be taken to care for the injured, to apprehend any suspects, and to protect the crime scene.
 - b. Once the subject is restrained or has complied, the Taser shall be turned off.
 - c. If the air cartridge was deployed, remove the Taser darts at the earliest opportunity by a Taser certified officer or qualified medical personnel. If the probes are embedded in the facial area, soft tissue around the neck, genital area or breast of females, only qualified medical personnel shall remove the darts.
 - d. The probes may be removed from other areas, at the discretion of the trained officer under training guidelines. Officer(s) shall provide first aid following removal of the probes by applying an antiseptic to the probe site as needed.
 - e. The officer shall inspect the probes after removal to ensure that the probe and probe barb have been completely removed. In the event that a probe or probe barb has broken off, the subject shall be provided with the appropriate medical attention to facilitate the removal of the object.
 - f. The officer shall visually inspect the area struck to determine if an injury was sustained.
 - g. Probes that have been removed from the skin shall be treated with biohazard sharp objects and placed as evidence within an appropriate container. Officers shall wear protective latex gloves when removing and handling the discharged probes.
 - h. The officer discharging the weapon shall be responsible to collect a minimum of three **(3) A.F.I.D. tags**; the spent

cartridge and darts shall be placed into evidence. If the tags cannot be recovered, the officer shall note the circumstances in the incident report.

- i. Involved personnel shall attempt to locate and identify witnesses to the incident.
- j. Jail receiving officers shall be notified of Taser deployment prior to subject incarceration.
- k. Medical treatment **shall not be denied** to anyone who requests treatment.
- l. Any impact site, probes, or drive stuns **shall be digitally photographed.**

5. Taser Maintenance and Care

- a. Replace air cartridges prior to the expiration date. The expired air cartridges will only be used for training purposes.
- b. KCSO currently issues the following CEW models:
 - (I) TASER X26
 - (II) TASER X26P
 - (III) TASER 7
- c. At the beginning of each shift, officers shall conduct a function test of their issued Taser in accordance with their training and manufacturer's recommendations.
- d. Only a properly functioning and charged Taser shall be carried on-duty.
- e. Do not store the Taser unit near flammable liquids or fumes.
- f. Do not place the air cartridge near any source of static electricity.
- g. The KCSO Quartermaster shall:
 - (I) Receive, inspect and ensure the maintenance and replacement of the devices assigned to personnel.
 - (II) Establish and maintain systems to record issuance of the Taser and air cartridges. Serial numbers shall be recorded.

- (III) Maintain an adequate supply of batteries and air cartridges.
 - (IV) Return defective or damaged Taser devices and cartridges to Axon Enterprise, Inc.
 - (V) Obtain service and/or replacement for defective or damaged components from Axon Enterprise, Inc.
 - h. Re-certification training for certified users will be arranged by the Support Division.
 - i. Training updates will be maintained by the Support Division.
6. Reporting Procedures:
- a. Any officer who has discharged the Taser shall record the facts and circumstances on the incident report and submit a Response to Resistance Summary. There shall be an incident report made and case number assigned to all deployments. This shall apply to both drive-stuns and cartridge firings.
 - b. The Support Division Commander shall review the Response to Resistance Summary, and document the incident as part of the Response to Resistance review process.
 - c. Photographs shall be taken, if possible, of the probe impact sites in the skin has been penetrated, **except** when the impact site is the breast or genital area of a female and groin area of a male. The photographs will be entered into evidence.
 - d. An incident report is required for and Taser discharge. This includes any intentional, accidental, or drive-stun. Exception is the Taser function test at the start of each shift.
 - e. Cartridges utilized for training purposes by authorized trainers must documented by the Quartermaster on the Taser Log.
 - f. The Quartermaster shall record all Tasers and cartridges. Each officer shall ensure that their Taser and cartridge are recorded prior to carrying on duty. This applies to both issued and personally owned Tasers. **Use or possession of a cartridge that is not recorded is a violation of policy.**

E. Stun Cuff Electronic Restraint Device (ERD)

This procedure provides the general guidelines for the use of a Stun Cuff Electronic Restraint Device (ERD).

1. Issuance and Recording of ERD:
 - a. The ERD will be issued by the Transport Sergeant or their designee for usage.
 - b. A Response to Resistance form and Incident report shall be completed with issuance of each ERD.
2. Training and Certification:
 - a. Only officers who have successfully completed KCSO training may use or fire the ERD.
 - b. An annual training or re-certification shall be successfully completed.
 - c. The Transport Sergeant will maintain a current list of all officers authorized to use the ERD.
3. Utilization and Activation Considerations:
 - a. The ERD shall only be used while performing official duties.
 - b. **Subject Control Continuum modification.** ERD's have application where the subject's actions constitute **active resistance** or **active aggression**.
 - c. The decision to use the ERD is based upon similar criteria an officer utilizes when selecting to deploy other less-lethal response to resistance options. The decision must be made dependent on the actions of the subject(s) or threat facing the officer(s) and the totality of the circumstances surrounding the incident. The use of the ERD must be **reasonable** and **necessary**.
 - d. Officers shall provide **a warning** to a suspect prior to activating the ERD as long as it is safe to deliver such a warning and there is opportunity to do so.
 - e. The ERD may be activated in situations when a subject's conduct is threatening and the subject could reasonably be expected to injure themselves, and officer, or others, and other means of controlling the subject are not reasonable.
 - f. The ERD may be placed on individuals who have posed a threat, have a history of threats and/or assaults, or are a potential danger to themselves or others.

- g. The ERD shall never be activated punitively or for purposes of coercion. It is to be used as a method of averting a potentially injurious or dangerous situation.
4. Responsibilities after use:
- a. The Sergeant or OIC shall be **notified immediately** when the ERD has been deployed.
 - b. Immediate action should be taken to care for any injuries that may have been sustained.
 - c. Photographs shall be taken of the deployment site.
 - d. Involved personnel shall attempt to locate and identify witnesses to the incident.
 - e. Jail receiving officers shall be notified of ERD deployment prior to subject transport to jail.
 - f. **Medical treatment shall not be denied** to anyone who requests treatment.
5. ERD maintenance and care:
- a. Each assigned officer shall conduct a per-service inspection of the wireless transmitter to confirm its condition. The officer shall inspect the device, locking strap and transmitter to ensure it's clean, charged, and in good working order.
 - b. Prior to going into service, members shall conduct a **spark test** of the ERD to check for proper operation.
 - c. In the event the ERD fails the pre-service inspection or the spark test, the assigned officer shall notify the Transport Sergeant or OIC. The device shall be taken out of service until necessary repairs are made.
 - d. During storage, the ERD and wireless transmitter shall be returned to the Michigan Avenue Courthouse Sergeants Office to be placed on the charging base to ensure the device will be ready for the next use.

IX. REPORTING USE OF LESS-LETHAL RESPONSE TO RESISTANCE

- A. The use of any less-lethal response to resistance shall be reported to the immediate supervisor forthwith.

1. Any incident involving the use of less-lethal response to resistance shall be included in the officer(s) incident report detailing the circumstances, the lawful basis, the manner/method/degree of response to resistance used, any injuries received by any person involved, and the medical treatment that was provided.
2. Prior to the next business day such reports shall be completed immediately following each such incident and shall include any supplemental reports that may be required and brought to the attention of the officer's immediate supervisor.
3. Any incident involving the use of less-lethal response to resistance, which results in any injury requiring medical treatment, or claim of injury, shall be reported immediately by the officer's immediate supervisor to the Assistant Division Commander or higher authority.

X. DOCUMENTING RESPONSE TO RESISTANCE

- A. **A well-written report documenting the response to resistance assists the prosecution of a case and aids the judge and jury in understanding the facts and circumstances.** It is an officer's best defense against excessive response to resistance claims because all the facts and circumstances that led up to the incident as well as the response to resistance are included. When writing response to resistance reports, officers should utilize the **Michigan Law Enforcement Officer-Subject Control Continuum (Appendix A)** as a guide to ensure:
1. All elements of the response to resistance are described, and consistent and correct terminology is used.
- B. The elements of a good report (i.e., who, what, where, when, and how; timely, accurate, and complete) should be included; as well as:
1. The legal basis for the contact or intrusion (nature of the call identifies the legal basis but also indicates the officer's state of mind).
 2. The totality of circumstances, which includes, but is not limited to:
 - a. The exact description of the original call or reason for contact or intrusion.
 - b. The subject's action or behavior (including statements).
 - c. Known or suspected use or being under the influence of alcohol or drugs.

- d. Rationale, not rational (state of mind).
 - e. The subject's use of or access to weapons.
 - f. Distance from the subject.
 - g. Relative strength of officer/subject.
 - h. Knowledge of subject's criminal/violence history.
 - i. Weather or terrain conditions.
 - j. Immediacy of danger.
 - k. Injury or exhaustion of officer.
 - l. Physical location of incident.
 - m. The officer's response (e.g., verbal commands, soft empty hand controls, etc.) to control the subject's action.
 - n. The effectiveness of the control method(s) used.
 - o. The subject's response to the officer's attempt at control.
 - p. The reasonable perception of the officer of the conduct of the individual being confronted.
 - q. Training and experience level of the officer.
 - r. Multiple subjects and/or officers.
 - s. Risk of escape.
 - t. Any relevant or perceived factors.
3. Any observable injuries, or complaints of injury(ies) to the officer and/or subject need to be documented by:
- a. Describing how and when the injury(ies) occurred and the medical treatment required; location (e.g., at scene, hospital, etc.) of the medical treatment; attending medical personnel (e.g., paramedic, nurse, doctor, etc.); time elapsed between injury and treatment; and photographing the injury(ies).
4. Officers should also document damage to equipment (e.g., uniform, watches, glasses, patrol vehicle, other property, etc.) that resulted from the subject's actions.

- C. Response to Resistance Summary (Appendix B) shall be submitted:
1. When an officer uses hard empty hand techniques, a baton, ASR spray, Taser, PepperBall or a firearm to gain compliance.
 2. Anytime an officer's response to resistance results in an injury or an immediate claim of injury.
 3. Upon supervisor direction.
 4. A Response to Resistance Summary form shall be completed for each subject involved.
- D. Supervisors play an important role in any response to resistance incident.
1. They shall review the officer's investigation report and Response to Resistance Summary to determine if the response to resistance was necessary and appropriate given the amount of resistance and whether or not it was within KCSO policy and subject control guidelines.
 2. Any questions the supervisor has regarding the incident report, policy compliance, neutral witnesses, etc., should be resolved immediately and proper notifications made.
 3. The Response to Resistance Summary form shall be forwarded to the Support Division Commander.

XI. VIOLATIONS OF POLICY

Violations of policy shall be immediately reported through the chain of command to the *Division Commander* or, in his/her absence a higher authority.

XII. POST INCIDENT ANALYSIS

- A. The Division or Assistant Division Commander shall review all response to resistance incidents and Response to Resistance Summary reports to determine:
1. If the amount and level of response to resistance was reasonable and justified.
 2. If an officer violated any of the policy and procedures outlined in this directive.
 3. Should the preview of the Response to Resistance Summary result in questions from #1 & #2, the Summary will be forwarded to a full review. The review will be conducted by the Support Division

Commander and two (2) others who are of Sergeant rank or higher, or Response to Resistance instructors.

4. The review will determine if any disciplinary or other corrective action is necessary.
- B. The Support Division Commander shall conduct a periodic analysis of the Response to Resistance Summary reports to determine if response to resistance incidents reveal patterns or trends that may call for additional training or police modifications.

XIII. AUTHORIZED USE OF DEADLY RESPONSE TO RESISTANCE

- A. Deadly response to resistance is limited to:
1. Self-defense.
 2. Defense of another when the officer has reason to believe there is imminent danger or great bodily harm.
 3. Apprehending a fleeing felon where the officer has probable cause to believe that:
 - a. The suspect has committed a crime involving the infliction or threatened infliction of serious physical harm, and
 - b. The use of deadly response to resistance is necessary to prevent the suspect's escape.
- B. Deadly response to resistance decisions based upon self-defense, defense of another, or a fleeing felon must meet four criterion:
1. Must be an **immediate** threat of death or serious injury. Immediate threat is defined as the officer's reasonable belief that:
 - a. A subject has apparent ability to cause death or serious injury.
 - b. A subject has immediate opportunity to cause death or serious injury.
 - c. An officer or another person is in immediate jeopardy of being killed or seriously injured.
 2. There is no apparent alternative.
 3. Bystanders will not be unreasonably jeopardized.
 4. There is probable cause to believe a significant threat of death or serious injury to the officers or others exists if the subject escapes.

- C. Officers **shall not** discharge a firearm at or from a moving vehicle except as the ultimate measure of self-defense or defense of another when the suspect is using "deadly response to resistance".
- D. KCSO personnel **shall not** fire warning shots.
- E. KCSO personnel should, circumstances permitting and when reasonably practical, identify themselves as law enforcement officers and give a verbal warning of their intent to use deadly force.
- F. When an ordinary and prudent officer would reasonably fear for his or her safety or the safety of others, while affecting an arrest, or for the purposes of destroying an animal, ballistics examination, training, or cleaning as provided by KCSO directives.

XIV. AUTHORIZED FIREARMS

- A. Officer's, while on-duty, **shall** carry only KCSO issued or approved sidearms and ammunition, pursuant to the KCSO Issued Weapons directive.
- B. Auxiliary sidearms/special assignment firearms may be carried while on-duty, in compliance with the KCSO Issued Weapons directive.

XV. FIREARMS AND RESPONSE TO RESISTANCE TRAINING

- A. Sworn personnel having deputy status **shall qualify bi-annually** with his/her KCSO issued sidearm.
- B. Sworn personnel assigned to the Operations Division and Transport Unit **shall** train annually at an outdoor shotgun/tactical pistol range.
- C. Sworn personnel authorized to carry a patrol rifle **shall qualify annually**.
- D. Sworn personnel assigned to the Operations and Jail Division **shall** participate in KCSO authorized subject control training.
- E. Sworn personnel **shall** be KCSO trained and qualified in a LESS-LETHAL WEAPON SYSTEM before the officer may carry the weapon. This **shall** include the baton, ASR spray, Taser and PepperBall.
- F. KCSO **shall** provide Response to Resistance, Rapid Deployment, Tactical Entry and other training as determined to be necessary.
- G. Sworn personnel not mandated to attend the above training may request authorization to attend. Training is voluntary, must not interfere with his/her primary duties.

XVI. HANDLING AND CARE OF FIREARMS

A. General safety precautions:

1. "Horseplay" with firearms is prohibited.
2. Every firearm is to be considered loaded until it is **verified** to be unloaded.
3. Inspect the firearm for obstructions before loading.
4. Never leave a loaded firearm unsecured.
5. Never point a firearm, loaded or unloaded, at anyone you do not intend to shoot, nor in a direction or in a manner where an accidental discharge may do harm.
6. Never "**dry-fire**" except at a place provided for and then only after inspection of the weapon.
7. Any testing of weapons for the purposes of criminal investigation shall be done at an official police range or forensic facility.
8. A trigger lock device may be used on KCSO weapons.

B. The care of KCSO issued weapons shall be pursuant to the KCSO Issued Weapons directive.

XVII. FIREARM DISCHARGE INVESTIGATION

Sworn personnel **shall** prepare a detailed incident report whenever a firearm is discharged either officially or accidentally. Exceptions: training, target practice, ballistics examination, and incidents involving the destroying of an animal.

A. An officer involved in a shooting or other volatile incident shall take the following immediate steps:

1. Notify Dispatch, advise of the location, injuries and type of incident.
2. Render first aid if safety allows (is the scene safe?).
3. Remain at the scene unless injured or otherwise directed by a Command Officer.
4. Identify/retain witnesses.
5. Protect his/her weapon(s) for evaluation by the Command Officer in charge.

6. Discuss the incident only with officials pursuant to administrative orders and KCSO directives.
- B. Dispatch personnel will be asked to:
1. Dispatch medical aid as requested.
 2. Remain attentive to on-scene personnel.
 3. Advise other law enforcement agencies as directed or necessary.
 4. Be cognizant of the need to notify other resources (i.e., medical staff at local emergency rooms).
- C. Upon direction of the on-scene OIC, Dispatch personnel shall notify the following:
1. Sheriff/Undersheriff
 2. Division Commander
- D. On-scene authority shall rest with the Sergeant/OIC until relieved by a higher authority.
- E. The Sheriff/Undersheriff shall advise the Prosecutor.

XVIII. POST-TRAUMA AFTERCARE PROCEDURES

This section provides response guidelines for the aftercare of KCSO personnel involved in a traumatic incident resulting in death or serious bodily injury.

Law enforcement duties often expose officers and support personnel to mentally painful and highly stressful situations that may not be resolved through normal stress coping mechanisms. These situations have the potential to cause emotional and physical impairments often referred to as **Post-Traumatic Stress Disorder**. It has been found that officer-involved shootings, or other violent encounters, resulting in death or serious bodily injury to a citizen or a fellow officer may precipitate the disorder. Therefore, it shall be KCSO policy to take immediate action after such incidents to safeguard the continued good mental health of all involved personnel.

- A. Supervisor interaction with Officers at Scene of Traumatic Incident:
1. A supervisor **shall** be dispatched to the scene of the incident and **shall** assume primary responsibility for the care of involved personnel.
 2. The supervisor **shall** make appropriate arrangements for all necessary medical treatment.

3. Whenever possible, the involved officer **shall be immediately relieved from the scene and taken to a quiet area away from the scene**. A supportive friend or officer should remain with the officer but should be advised not to discuss the details of the incident.
4. The supervisor should arrange for the officers directly involved in the incident to **leave the scene as soon as possible** and be taken to a quiet, secure setting.
5. Involved officers should notify their families about the incident as soon as possible. Where an officer is unable to do so, a KCSO official shall personally notify his/her family and arrange for any necessary transportation.
6. At all times, when at the scene of the incident, the supervisor **shall** interact with the officer(s) and all involved personnel in a manner that acknowledges the stress caused by the incident.
7. No caffeine, other stimulants or depressants should be given to the officer(s) unless administered by medical personnel.
8. The officer(s) should be advised they may have legal counsel present. The officer(s) should be advised not to discuss the incident with anyone except a personal or KCSO attorney, union representative, or KCSO investigator, until the conclusion of the preliminary investigation.
9. Officers **may be required to provide an initial summary of the incident** in order to determine if others are at risk of injury and/or need of medical treatment.
10. The supervisor **shall** take custody of the officer's duty weapon for laboratory analysis. The supervisor **shall** take custody in a discreet manner and replace it with another weapon or advise the officer that it will be returned or replaced at a later time, as appropriate.

B. Post-Incident Procedures

1. The Sheriff will normally assign an officer directly involved in a shooting to administrative leave with pay. The officer shall remain available during normal business hours (0900 - 1600 hours, Monday through Friday) for any necessary administrative investigation.
2. Officers directly involved in an officer-involved shooting or traumatic incident **may be required to contact a KCSO designated specialist for counseling and evaluation as soon as practical**. Involved support personnel should also be

encouraged to contact such specialists after a traumatic incident. After the counseling sessions, the specialist shall advise KCSO:

- What would be in the officer's best interest, to be placed on administrative leave or light duty, and for how long?
 - The point at which officers, who are relieved of their weapon(s) after an incident, should have the weapon(s) returned.
 - The best continued course for counseling.
3. KCSO strongly encourages the families of the involved officers to take advantage of available counseling services.
 4. Any KCSO investigation of the incident **shall** be conducted thoroughly and as **expediently** as practical.
 5. KCSO personnel will be briefed concerning the incident so that rumors are kept to a minimum. Personnel are encouraged to show the involved officers their concern.
 6. KCSO personnel involved in a shooting incident **shall not** speak with the media about the incident. Officers **shall** refer inquiries from the media to a designated KCSO spokesperson unless otherwise authorized to release a statement pertaining to the incident.
 7. As post-traumatic stress disorders may not arise immediately, or the officers may attempt to hide the problem, each supervisor is responsible for monitoring the behavior of unit members for symptoms of the disorder.
 8. A supervisor **shall** advise his/her Division Commander upon a reasonable belief that stress may be disrupting an officer's job performance.

XIX. PROTECTIVE BODY ARMOR

Officers assigned to the Operations (patrol) Division, Transport, or engaged in off duty employment while in uniform **shall wear protective body armor**, pursuant to the Protective Body Armor directive.

XX. DEFINITIONS

Officers must communicate with a common vocabulary, and all critical terms should be clearly defined. The following terms are relevant to the **Michigan Law Enforcement Officer Subject Control Continuum** published by the Michigan Commission on Law Enforcement Standards (**MCOLES**).

- A. **Aerosol Subject Restraint (ASR)** is a KCSO issued/authorized self-defense spray device, to be utilized in accordance with KCSO policies.
- B. **Control of a subject** is established when the subject's unlawful action(s) are neutralized and no longer pose a threat to the officer, the subject, and/or others.
- C. **Control Methods** are verbal or physical techniques an officer uses to neutralize the unlawful actions of a subject, or to protect the subject from self- injury or injury to others.
- D. **Deadly Response to Resistance** is any response to resistance used by an officer that may result in great bodily harm or the loss of human life. (Note: In this definition, "may" means likely to, not just a mere possibility.)
- E. **Empty Hand Controls** are Pressure Point Control Tactics (PPCT) or similar methods, which utilize pain compliance, stunning, and/or motor dysfunction principles, and are justifiable for the level of threat.
- F. **Firearm** is an issued/authorized handgun or shoulder weapon to be utilized in accordance with applicable KCSO policies.
- G. **Response to Resistance** is the attempt to establish control through physical means, in the presence of resistance. All response to resistance is a means of control. However, control can at times be achieved without the use of physical response to resistance.
- H. **Hard Empty Hand Controls** or similar methods which utilize quick penetration and/or strikes have a high probability of subject injury and are justifiable for the level of threat.
- I. **Hard Intermediate Weapon Control** is the utilization of a baton, PPCT techniques of striking and/or blocking a subject who assaults or threatens to assault the officer or another.
- J. **Intermediate Weapons** are the KCSO issued ASR spray, baton, PepperBall and Taser.
- K. **PepperBall** is a pepper irritant compliance system. The PepperBall system consists of a launcher and plastic projectiles containing Capsaicin. Capsaicin causes irritation to the suspect's eyes, nose and throat.
- L. **Last Resort situations** are those wherein certain immediate and drastic measures must be undertaken by an officer in order to protect human life or prevent great bodily harm. Response to resistance used in these situations may involve the use of techniques or weapons not covered by policy. However, they remain to be measured by objectively reasonable use of response to resistance standards.

- M. **Less-lethal Response to Resistance** is any amount of response to resistance that is not likely to result in serious injury or death. The use of less-lethal response to resistance is intended primarily for uses described herein involving unarmed assailants. It is understood that attaches by armed assailants may result in the officer using a higher degree of response to resistance up to an including deadly response to resistance. Less-lethal response to resistance **excludes** incidental touching and handcuffing techniques reasonably used on a non-resisting subject.
- N. **Objectively Reasonable Response to Resistance**. Individual officers may respond differently to a subject's resistance or actions. Officers are not required to choose the least intrusive control method, **only a reasonable one**. Guidance on objectively reasonable response to resistance comes from current case law, which indicates that the reasonableness of the use of response to resistance will be judged by looking at the moment the response to resistance was used. When utilized, an officer's action will be judged in light of what a reasonable officer on the scene would have done given the same set of circumstances (**Graham v Connor, 109 S.Ct. 1865 (1989)**).
- O. **Officer-involved Shooting Incident**. A line of duty incident where shooting causes death or serious bodily injury to an officer or another person.
- P. **Officer Response** is lawful action taken by an officer to gain control of a subject whose unlawful actions create a dangerous situation for the officer or others, or the subject is attempting to defeat the officer's attempt to gain control.
- Q. **Subject control techniques/training** is a KCSO approved method of applying pressure points, joint locks and techniques to control a subject.
- R. **Reasonableness** means with reason, moderate action suitable to the situation, consistent with KCSO approved training and policies. The final decision as to the reasonableness of a law enforcement action will be determined on a **case-by-case basis** by KCSO or other personnel called upon to review the appropriateness of those tactics or actions, based on what a "**reasonable**" officer would have done under the circumstances.
- S. **Resistance** is a subject's attempt to evade an officer's attempts to establish control.
- T. **Soft Empty Hand Controls** are PPCT subject control methods that utilize techniques of touch pressure and/or wrist locks and have a minimum probability of subject injury.
- U. **Soft Intermediate Weapon Control** is the utilization of ASR spray to control a subject's passive or defensive resistance or prevent an unlawful and/or assaultive behavior.

- V. **Subject Action** is an unlawful action(s) (verbal or physical) taken by a subject to defeat an officer's attempt to gain control of the subject during an arrest or confrontational situation.
- W. **Taser** - A Conducted Energy Weapon (CEW), previously known as an Electro-Muscular Disruption weapon that falls into the category of less-lethal response to resistance. It transmits an electrical pulse causing temporary physical debilitation to a person due to uncontrollable contractions of the muscle tissues.
- a. TASER X26, TASER X26P and TASER 7 are Conducted Energy Weapons (CEW.) that utilizes an electrical discharge, which disrupts the body's ability to communicate messages from the brain to the muscles causing motor skill dysfunction. The deployment of the air cartridges uses compressed nitrogen to project two probes with a maximum range of 21 feet. The probes are attached to the power source by insulated wire leads. The Taser unit also features a drive-stun mode as an alternative defensive system.
 - b. ANTI-FELONY IDENTIFICATION DEVICE (A.F.I.D.) are confetti like ID tags. Each cartridge contains up to 40 identification tags that are ejected when the weapon is discharged. The tags contain the serial number of the cartridge used, which identifies the deputy assigned to that air cartridge.
 - c. AIR CARTRIDGE is a single use item that contains compressed nitrogen.
 - d. DATA PORT: The TASER X26 and TASER X26P are designed with a data port located on the back of the unit. This data port allows for the downloading of the usage record for that weapon. The TASER 7 transfers data when properly seated in the docking station.
- X. Totality of Circumstances describes the facts and circumstances confronting the officer, at the time response to resistance is used. These include, but are not limited to:
- a. Type of crime committed or attempted.
 - b. Relative size/stature of officer and subject.
 - c. Multiple subjects/officers.
 - d. Relative strength of officer and subject.

- e. Subject(s) access to weapons.
- f. Subject(s) under the influence of alcohol or drugs.
- g. Exceptional abilities/skills (e.g., martial arts).
- h. Injury too, or exhaustion of the officer.
- i. Weather or terrain conditions.
- j. Immediacy of danger.
- k. Distance from the subject.
- l. Special knowledge (e.g., subject's prior history of violence, etc.).
- m. **Exigent conditions:** number of officers, number of subjects involved, and availability of backup.
- n. **Reaction time:** the officer must consider that action is faster than reaction; thus, the officer must pay attention to the above factors when preparing for a course of action.
- o. **Reactionary gap:** officers should be cognizant of, and utilize whenever possible, a reactionary gap during all police contacts. The reactionary gap is the safety zone between the officer and subject, which affords the officer more time to react to aggression:
 - (I) The average distance is six to eight feet.
 - (II) Varies with type of weapon the subject may possess.
 - (III) The officer generally has two "reactionary options" available:
 - (A) Penetrate the gap to attempt control.
 - (B) Disengage to create distance.

XXI. SUMMARY

This directive serves as a summary of the use of response to resistance tools and the deployment criteria our sworn personnel have been given to effectively carry out his/her duty. In addition, every officer has the responsibility to protect oneself and fellow officers from the dangers of a use of response to resistance encounter. **The safety of our personnel is paramount to the mission of KCSO.**

End of Written Directive
RCF