

**WOODFORD COUNTY BOARD OF EDUCATION  
AGENDA ITEM**

**ITEM #:** 141 **DATE:** December 4, 2019

**TOPIC/TITLE:** SRO General Order Amendment

**PRESENTER:** Garet Wells GW

**ORIGIN:**

- ☐ TOPIC PRESENTED FOR INFORMATION ONLY (No board action required.)
- ☐ ACTION REQUESTED AT THIS MEETING
- ☒ ITEM IS ON THE CONSENT AGENDA FOR APPROVAL
- ☐ ACTION REQUESTED AT FUTURE MEETING: (DATE)
- ☐ BOARD REVIEW REQUIRED BY

- ☐ STATE OR FEDERAL LAW OR REGULATION
- ☐ BOARD OF EDUCATION POLICY
- ☐ OTHER:

**PREVIOUS REVIEW, DISCUSSION OR ACTION:**

- ☐ NO PREVIOUS BOARD REVIEW, DISCUSSION OR ACTION
- ☐ PREVIOUS REVIEW OR ACTION

- ☐ DATE:
- ☐ ACTION:

**BACKGROUND INFORMATION:**

Board policy 02.31 states in part "An SRO is vested with law enforcement jurisdiction and authority as described in KRS 61.902 to KRS 61.930 and other applicable law, including, but not limited to, investigating and responding to possible criminal offenses and to health or safety threats to students or school personnel."

**SUMMARY OF MAJOR ELEMENTS:**

Requesting the Board amend General Order 2019-012A as underlined in the attached to permit the carry of an electronic control device (taser) as an option for a secondary weapon.


**IMPACT ON RESOURCES:**

**TIMETABLE FOR FURTHER REVIEW OR ACTION:**

**SUPERINTENDENT'S RECOMMENDATION:** ☒ Recommended ☐ Not Recommended



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	<p style="text-align: center;">Woodford County Public Schools Police Department General Order Number 2019-012A</p>		
	Title / Subject	EFFECTIVE DATE	REVISION DATE
	Response to Resistance	22 JUL 2019	
REFERENCES	DISTRIBUTION		
K.R.S. 503.090	All Sworn Personnel		

- I. **Purpose:** The purpose of this policy is to direct officers in the appropriate use of force.
- II. **Policy:** The policy of this department is to protect and serve all staff and students while at the same time respecting the rights of suspects and balancing the need for officer safety in use of force events. It is the policy of this department that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.
- III. **Definitions:**
  - A. **Deadly Force:** The Federal Courts have defined deadly force as any force that creates a substantial likelihood of death or serious bodily harm. The Kentucky Legislature has further defined deadly force in K.R.S. 503.010: "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury.
  - B. **Non-Deadly Force:** All uses of force other than those that create a substantial likelihood of serious bodily harm or death.
  - C. **Imminent:** Impending or about to occur.
  - D. **Objectively Reasonable:** The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer using the force is presented with.
  - E. **Reasonable Belief:** Reasonable belief means that the person concerned, acting as a reasonable person believes that the prescribed facts exist.
  - F. **Serious Physical Injury:** "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes

serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ”

- G. Electronic Control Device:** Electronic Control Devices, TASER,™ or stun-guns (electronic control weapons) that disrupt the central nervous system of the body.
- H. Active resistance:** a subject actively resists when they take affirmative action to defeat an officer’s ability to take them into custody.
- I. Physical force:** Use of any part of an officer’s body, such as joint manipulation, leverage, pain compliance, take-down maneuvers or neck restraint holds.
- J. Chemical agents:** Use of any chemical agent to overcome subject resistance.
- K. Impact tools/strikes:** Use of any tools, object or body part to strike a subject
- L. Electronic tools:** Use of any electronic equipment on a subject being controlled
- M. Injury or complained of injury:** Any time the subject being controlled is injured or complains of injury.
- N. Pointing of Firearms:** Any time an officer points a firearm at an individual, notwithstanding the fact that deadly force is not ultimately deployed. This does not include drawing a firearm and maintaining at the low-ready position.
- O. Firearms discharges:** Any discharge of a firearm other than at the range or during qualification whether unintentional, for animal dispatch, or whether a subject is hit or not will be reported in a separate manner consistent with these policies.

#### **IV. Procedure:**

- A.** In determining the appropriate level of force officers should apply the levels of force under the department’s trained use of force continuum along with the following three factor test:
  - a.** How serious is the offense the officer/deputy suspected at the time the particular force used?
  - b.** What was the physical threat to the officer/deputy or others?
  - c.** Was the subject actively resisting or attempting to evade arrest by flight?
- B. Force Options:** Officers have several force options that will be dictated by the actions of the suspect upon the appearance of the officer. Officers may be limited in their options due to the



circumstances and actions of the subject. For example, an officer who immediately observes a subject with a firearm unjustifiably threatening another may immediately respond with deadly force without considering other force options.

- a. **Command Presence:** Visual appearance of officer/deputy where it is obvious to the subject due to the officer's uniform or identification that the officer/deputy has the authority of law.
  - b. **Verbal Commands:** Words spoken by the officer/deputy directing the subject as to the officer's expectations.
  - c. **Soft Empty Hand Control:** Officer's use of hands on the subject to direct the subject's movement; Techniques that have a low potential of injury to the subject.
  - d. **Chemical Spray:** Where subject exhibits some level of active resistance/active aggression, officers may use chemical spray to temporarily incapacitate the subject.
  - e. **Electronic Control Devices:** Where subject exhibits some level of active resistance/active aggression an officer may use an electronic control device to temporarily incapacitate the subject.
  - f. **Hard Hand Control:** Punches and other physical strikes, including knees, kicks and elbow strikes that have the possibility of creating mental stunning and/or motor dysfunction.
  - g. **Impact Weapons:** Batons, ASP/Expandable Baton may be utilized in cases where the officer believes the use of these weapons would be reasonable to bring the event under control. Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.
  - h. **Deadly Force:** The Federal Courts have defined deadly force as any force when employed may bring about serious bodily injury or death. The Kentucky Legislature has further defined deadly force in K.R.S. 503.010: "Deadly physical force" means force which is used with the purpose of causing death or serious physical injury or which the defendant knows to create a substantial risk of causing death or serious physical injury
- C. **Deadly Force:** The use of deadly force is objectively reasonable when the officer is faced with an imminent threat of serious physical injury or death to him/herself or to other people who are present, or to prevent kidnapping and sexual assault.
- D. Kentucky statutory law provides:

- a. The use of physical force by an officer upon another person is justifiable when the officer, acting under official authority, is making or assisting in making an arrest, and he:
    - 1) Believes that such force is necessary to effect the arrest;
    - 2) Makes known the purpose of the arrest or believes that it is otherwise known or cannot reasonably be made known to the person to be arrested; and
    - 3) Believes the arrest to be lawful.
  - b. The use of deadly physical force by a defendant upon another person is justifiable only when:
    - 1) The officer, in effecting the arrest, is authorized to act as a peace officer; **and**
    - 2) The arrest is for a felony involving the use or threatened use of physical force likely to cause death or serious physical injury; **and**
    - 3) The officer believes that the person to be arrested is likely to endanger human life unless apprehended without delay.
- E. In all deadly force events, officers should warn the subject prior to using deadly force where feasible.
- F. Once the subject's active resistance has ceased and control has been gained an officer is no longer authorized to use force. Officers should immediately provide any necessary medical assistance to the subject to the degree to which they are trained and provide for emergency medical response where needed.
- G. Discharge of Firearms Restrictions:
  - a. Warning Shots are prohibited
  - b. Discharge of firearms is prohibited when the officer is presented with an unreasonable risk to innocent third parties.
  - c. When a moving vehicle is involved, use of deadly force by discharging a firearm is dangerous, can be ineffective, and should not occur when there is an unreasonable risk to the safety of persons other than the subject. Whenever possible, officers should avoid placing themselves in a position where use of deadly force is the only alternative.
  - d. Even when deadly force is justified, firearms shall not be discharged at a vehicle unless:
    - 1) The officer has a reasonable belief that an occupant of the vehicle poses an imminent threat of death or serious physical injury to the officer or another person, or



- 2) The officer has a reasonable belief that an occupant is using the vehicle in a manner that poses an imminent threat of death or serious physical injury to the officer or another person, and there is no avenue of escape.

**H. Less-Lethal Weapons/Tactics:** Prior to deployment of any less-lethal weapon, officers must be trained and certified through this agency or the manufacturer in a recognized training program covering the proper use of the weapon from both the technical and legal aspects. All deployments must be consistent with departmental use of force training and policy.

**a. Chemical Spray:**

- 1) Chemical Spray shall not be deployed as a compliance technique for a person who is passively or verbally non-compliant. Active resistance/active aggression shall be required.
- 2) Chemical Spray shall never be used as a punitive measure.
- 3) Officers should never spray from a pressurized can directly into a subject's eyes from a close distance due to the potential for eye injury as a result of the pressurized stream. Officers should never spray directly into a subject's eyes from closer than three feet or the distance recommended by the manufacturer of the spray (whichever is shorter) unless deadly force would be justified.
- 4) Officers shall consider alternatives to chemical spray when attempting to control a subject in a crowded-enclosed area due to the innocent over-spray that may cause the onset of panic.
- 5) Officers shall consider alternatives to chemical spray when the event is inside a building, particularly where the building has a closed-ventilation system due to the potential impact on innocent persons who may have to be evacuated (temporarily) from the locations.
- 6) Once control is gained, officers should immediately provide for the decontamination of the subject.
- 7) If the person shows any signs of physical distress or does not recover in a reasonable amount of time, officers should immediately direct an emergency medical response and render first-aid at the degree for which they are trained.

**b. Electronic Control Devices**

- 1) An electronic control device as a force option is the same level of force as chemical spray.
- 2) Electronic Control Device must be worn on the weak-side in either a weak-hand draw or cross-draw position.
- 3) Electronic Control Device deployment shall not be considered for the passively resistant subject. Active resistance or active aggression shall be required.
  - (a) Flight from an officer, standing alone, is not a justification for the use of an electronic control device. Officers should consider the nature of the offense suspected and the level of suspicion with respect to the person fleeing, and the risk of danger to others if the person is not apprehended immediately. Additionally, officers should consider the type of area, i.e. asphalt, railroad tracks, grass etc.
  - (b) Officers must be trained concerning ability of electrical charge to act as an ignition for combustible materials. (Note: Officers have been seriously injured and or killed after deploying a Electronic Control Device in the presence of open natural gas during suicidal person call)
  - (c) Multiple Electronic Control Device deployments against an individual may increase the likelihood of serious injury where the individual is suffering from other symptoms such as cocaine intoxication. Policy and training should encourage officers to minimize the successive number of discharges against an individual where possible.
  - (d) The agency recognizes however, particularly where back-up officers are unavailable, that multiple applications may be necessary to gain or maintain control of a combative individual.
  - (e) No more than one officer should deploy an electronic control device against a single individual at the same time.
  - (f) A contributing factor to serious injury or death is the level of a subject's exhaustion. Studies recommend that when an officer believes that control of a subject will be necessary and met with resistance, deployment of the Electronic Control Device should be considered early on in the event so that the person has not reached a level of exhaustion prior to the Electronic Control Device's use.



- (g) The preferred targeting is the center mass of the subject's back, however it is recognized that it is not always possible to get behind the subject.
- (h) Where back-targeting is not possible, frontal targeting should be lower center mass, intentional deployments to the chest shall be avoided where possible.
- (i) Officers who are aware that a female subject is pregnant shall not use the Electronic Control Device unless deadly force would be justified due to the danger created by the secondary impact or the possibility of muscle contractions leading to premature birth.
- (j) Officers shall make all reasonable efforts to avoid striking persons in the head, neck, eyes or genitals.
- (k) Officers are prohibited from using the device as punitive measure.
- (l) Electronic Control Devices shall not be used against a person who is in physical control of a vehicle in motion unless deadly force would be justified based on an existing imminent threat.
- (m) A warning prior to discharge is preferred but not always necessary for this type of force to be considered reasonable, model policies as well as courts have noted that giving a subject, who is assaultive toward the officer, a warning may enhance the danger to the officer and the subject by giving the subject time to avoid the deployment. See: Draper v. Reynolds, 369 F.3d 1270 (11th Cir. 2004).
- (n) Officers shall make all efforts to warn other officers that a deployment is about to occur.
- (o) The device shall never be used on a handcuffed person to force compliance unless the subject is actively resistant and control cannot be otherwise accomplished.
- (p) Officers should consider the location and environment of the subject. i.e. Is the subject at the top of a stairwell such that when incapacitated by the Electronic Control Device-they fall down the stairs causing a collateral injury. Officers shall avoid using Electronic Control Device in cases where the subject is elevated i.e. roof, fire escape, tree, bridge, stairwell, etc. etc. such that the secondary impact may cause serious injury.



- (q) Officers should be aware that a subject's heavy clothing may impact the effectiveness of the electronic control device.
- (r) Officers should consider whether the subject has been exposed to combustible elements that may be on their person such as gasoline. The use of an Electronic Control Device on such persons may cause an ignition and fire.
- (s) Officers should consider the particular subject and any vulnerabilities they may have such as: a person who is small in stature or very frail will be more dramatically impacted; some agencies have been criticized as well as sued for use on pregnant women, the very young and the elderly.
- (t) Alternative tactics shall be utilized where the officer has prior information that the subject suffers from a disability which would increase the danger to that person by using the Electronic Restraint Device. i.e. A person at the scene tells an officer that the subject has a heart condition.
- (u) Deployed probes that have been removed from a suspect should be treated as a bio-hazard.
- (v) Where EMS is available, their services may be utilized for the removal of darts that have penetrated the skin as long as such removal can be accomplished without causing further injury or pain to the subject.
- (w) All persons who have been the subject of a Electronic Control Device deployment shall be monitored for a period of time with a focus on symptoms of physical distress. Any person who appears to be having any form of physical distress following the deployment of an ECD, shall be transported to a medical facility for a medical examination. It should be noted that studies indicate that persons who suffer from excited delirium may not be immediately impacted and the onset of difficulty may occur a period of time after the police control event.
- (x) Mandatory Medical Clearance at Hospital:
  - (i) Persons struck in a sensitive area-eyes, head, genitals, female breasts.
  - (ii) Where the probes have penetrated the skin and Officers/EMS cannot safely remove darts in

accord with this policy.

(iii) Persons who do not appear to have fully recovered after a ten minute period of time however; officers who observe unusual physical distress should immediately call for medical assistance and should not wait the ten-minute recovery period recommended by this general order.

(iv) Persons who fall into one of the vulnerable classes such as juveniles, pregnant women, persons who are small in stature, persons who officers become aware have a pre-existing medical condition that increases danger and the elderly.

(v) Subject who request medical assistance.

**(y) Documentation:**

(i) All deployments of an Electronic Control Device shall be documented including those cases where a subject complies once threatened with such a device. By documenting the non-discharge uses, an agency establishes officer judgment and control as well as the deterrent effect of this tool.

(ii) Photographs of the affected area, shall be taken following the removal of darts from the subject to document any injury. Where the push-stun method has been used, photographs are extremely important due to the increased potential for this method to cause scarring.

(iii) Supervisory personnel shall be notified and review all Electronic Control Device deployment for consistency with policy and training.

(iv) Darts/Cartridges shall be properly stored and maintained as evidence following a discharge.

(v) Officers are required to complete a "response to active resistance form" which shall be reviewed by a supervisor following the ECD use.

(vi) All deployments shall be reviewed by the agency as well as training personnel.

(vii) Where there is any indication of lasting injury,



claim or complaint internal data from device shall be maintained.

- (viii) All ECD units will be audited monthly to ensure that all deployment/activations have been reported as required.

**c. Impact Weapons: Batons, ASP/Expandable Baton**

- 1) Impact weapons may be utilized in cases where the officers believe the use of these weapons would be reasonable to bring the event under control.
- 2) Examples would be where other options have been utilized and failed or where based on the officer's perception at the time, the other options would not be successful in bringing the event to a successful conclusion.
- 3) Officers shall not intentionally strike a person in the head with an impact weapon unless deadly force would be justified.

**V. Reporting Control to Active Resistance:**

**A. Purpose (Reporting):** It is the purpose of this policy to provide police employees and supervisors with guidelines for reporting control to active resistance. The department will develop a Report to Control Active Resistance (RCAR) form to capture all required information described in this policy.

**B. Policy (Reporting):** Police officers are given the authority to use force to overcome a subject's resistance to the officer's order to comply, effect arrest, defend against assault, and prohibit flight. It is incumbent that officers be held accountable to safeguard the rights of members of the public. This policy mandates that members of the Department accurately, completely and timely report subject control of active resistance and a supervisor conducts a prompt investigation and reports this investigation findings.

**C. Procedures (Reporting):**

- a. Officers who become involved in an incident that requires any degree of force are required to immediately notify their supervisor. The involved officer will provide a detailed documentation of the use of force utilized in the official police report prepared for the incident involved. In cases where no supervisor is working the officer will also be responsible for completing the RCAR report identified below prior to the end of their shift.

- b. A Report to Control Active Resistance (RCAR) form shall be prepared by a supervisor whenever an officer of this agency utilizes reportable force, as described in the definition of this policy, in the performance of their duties.
- c. The RCAR form will be completed in detail including a narrative account of the following:
  - 1) The actions of the subject that necessitated that use of force as a response to overcome the active resistance of the subject.
  - 2) The reasons why force was required and the type of force the officer utilized in overcoming the resistant subject.
  - 3) Any injuries or complaint of injuries of either the subject or the officer and any medical treatment received.

**D. Supervisory Responsibilities:** Once notified of an incident in which an officer has utilized force, the supervisor will immediately respond to the scene to investigate the incident. If the involved officer's supervisor is not available to respond, another supervisor will be dispatched to complete the RCAR. The supervisor will accomplish the following investigative steps in conducting the investigation:

- a. Interview the involved subject if they are cooperative, to determine their account of the incident and if they have a complaint. If they do have a complaint the supervisor shall complete a Public Service Report. If they have any type of injury, Internal Affairs or the designated departmental IA person will be notified. Additionally, should the supervisor determine that unreasonable force was utilized, the Internal Affairs designated investigator will be notified and assume control of the investigation.
- b. If a crime scene exists; or police equipment exists, which may contain forensic evidence, the supervisor shall ensure that the scene and evidence is processed, photographed and preserved.
- c. Take photographs of the involved officer(s) and subject(s) depicting any potential injuries or documenting the lack of any injuries to the parties involved.
- d. Interview, preferably audio-recorded/audio-visual recorded, all witnesses to the incident and document their description of the event.
- e. Ensure that a qualified health care provider handles any injuries or other medical condition being experienced by the involved person.



- f. The supervisor shall review any video recording of the incident, if available, prior to the completion of the RCAR and the approval of the officer's reports
- g. The supervisor investigating the use of reportable force shall be responsible for the review and approval of the officer's reports of the incident, when practicable
- h. The supervisor will complete the RCAR prior to completing their shift and submit it along with the officer's report to their chain of command for review.
- i. **Exceptions: The following do not require the completion of a RCAR unless otherwise required by the above policy:**
  - 1) Handcuffing or escorting a compliant, cooperative subject.
  - 2) Physical removal of peaceful demonstrators whom do not resist.