

COLUMBIA POLICE DEPARTMENT

Policy and Procedure Manual

RESPONSE TO RESISTANCE

Approved By: Kenneth Burton Chief of Police
CALEA 6th Edition Standard:

300 RESPONSE TO RESISTANCE

300.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers of this department with guidelines on reasonable response to resistance. This policy recognizes that the response to resistance by law enforcement requires constant evaluation. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person.

300.2 POLICY

The response to resistance by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another member use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 RESPONSE TO RESISTANCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances at the time of the event to accomplish a legitimate law enforcement purpose. The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident.

Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, Officers are entrusted to use well-reasoned discretion in determining the appropriate response to resistance in each incident.

It is also recognized that circumstances may arise in which Officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 RESPONSE TO RESISTANCE TO EFFECT AN ARREST

An officer may use reasonable force when the officer reasonably believes such force is necessary to effect an arrest or to prevent the escape from custody (§ 563.046, RSMo).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, an officer shall consider the totality of the circumstances of each particular case. A number of factors should be taken into consideration, as time and circumstances permit; these factors include, but are not limited to:

- a. Immediacy and severity of the threat to officers or others.
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

- c. Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of officers available vs. subjects).
- d. The effects of drugs or alcohol.
- e. Subject's mental state or capacity.
- f. Proximity of weapons or dangerous improvised devices.
- g. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- h. The availability of other options and their possible effectiveness.
- i. Seriousness of the suspected offense or reason for contact with the individual.
- j. Training and experience of the officer.
- k. Potential for injury to officers, suspects and others.
- l. Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- m. The risk and reasonably foreseeable consequences of escape.
- n. The apparent need for immediate control of the subject or a prompt resolution of the situation.
- o. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- p. Prior contacts with the subject or awareness of any propensity for violence.
- q. Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- a. The degree to which the application of the technique may be controlled given the level of resistance.
- b. Whether the person can comply with the direction or orders of the officer.
- c. Whether the person has been given sufficient opportunity to comply.

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In no circumstance shall the application of any pain compliance technique be continued once the officer determines that compliance has been achieved.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is justified in the following circumstances:

- a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle, its occupants or from a moving vehicle when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.4 REPORTING THE RESPONSE TO RESISTANCE

Any response to resistance which involves force by a member of this department shall be documented, completely and accurately in an appropriate report, depending on the nature of the incident prior to the end of shift unless the delay is authorized by a supervisor. The officer should articulate the factors perceived and why he/she believed the response to resistance was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

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300.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- a. The application caused a visible injury.
- b. The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- c. The individual subjected to the force complained of injury or continuing pain.
- d. The individual indicates intent to pursue litigation.
- e. Any application of the CED device or control device.
- f. Any application of a restraint device other than handcuffs, shackles or belly chains.
- g. The individual subjected to the force was rendered unconscious.
- h. An individual was struck or kicked.
- i. An individual alleges any of the above has occurred.

300.5.2 BLUE TEAM ENTRIES

A response to resistance entry containing information on the force used, all involved parties, and a brief narrative explaining the incident must be made through Blue Team software for the following circumstances:

- Any circumstances related to response to resistance that requires supervisor notification
- Use of a restraint chair.
- Any time an officer points a firearm at any person in response to the person's physical or implied actions.
- Any time an officer applies handcuffs to a person and the person is not arrested.
- When any amount of physical effort is used to compel compliance by an unwilling subject.

300.5 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance/evaluation shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing

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pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, or hospital staff. If any such individual refuses medical attention, such a refusal shall be fully documented with an Evaluation/Care Refusal Form and in related reports. Whenever practicable, the refusal should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any response to resistance is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable.

300.7 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force requiring supervisor notifications, the supervisor is expected to:

- a) Obtain the basic facts from the involved officers.
- b) Ensure that any injured parties are examined and treated.
- c) When possible, separately interview the subject upon whom force was applied. The interview should be recorded when practicable and allowed by law. If this interview is conducted without the person having voluntarily waived his/her Miranda rights, the following shall apply:
 - 1) The report should indicate the content of the interview was obtained for administrative purposes and that the subject did not voluntarily waive his/her Miranda rights prior to making the documented statements.
 - 2) The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

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- d) Once any initial medical assessment has been completed and/or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- e) Identify any witnesses not already included in related reports.
- f) Review all related reports, audio and video recordings and Blue Team entries.
- g) Determine if there is any indication that the subject may pursue civil litigation.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 WATCH COMMANDER RESPONSIBILITY

The Watch Commander shall review each response to resistance by any member within his/her command to ensure compliance with this policy and to address any training issues.