Response to Resistance

300.1 PURPOSE AND SCOPE
This order provides guidelines on the reasonable response to resistance. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

This order is written in terms to apply to sworn officers. In incidents where civilian employees are authorized to use force, they are subject to the same policies and procedures as officers, but the test of objective reasonableness is judged from the perspective of an objectively reasonable civilian employee with like-training.

Additionally, this order will provide directives and guidelines on the following:
- De-escalation principals and techniques;
- Parameters relating to the use of objectively reasonable force;
- Reporting requirements; and
- Providing medical assistance to injured subjects.

300.1.1 PHILOSOPHY
The sanctity of human life is the foundation by which DPD serves the community. 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 human encounters and when warranted, may exercise control over another in carrying out their duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use lawful and objectively reasonable force and to protect the public welfare requires a careful balancing of all human interests.

Officers should recognize that their conduct prior to the response to resistance may be a factor which can influence the level of force necessary in a situation.

300.1.2 DEFINITIONS
Definitions related to this order include:

**Active Aggression** – A physical act threatening assault or a verbal statement threatening assault, coupled with the immediate ability to carry out the threat or assault that would cause a reasonable person to believe bodily injury is imminent to any person.

**Bodily Injury** - Physical pain, illness or any impairment of physical condition (Tex. Penal Code § 1.07(a)(8)).

**De-escalation** - Using techniques, after consideration of the proportion of the threat, to stabilize the situation and reduce the immediacy of the threat, so that more options and resources are
available to bring about a successful resolution to an encounter with a non-compliant subject. The goal of de-escalation is to gain the voluntary compliance of subjects, when feasible, thereby eliminating the need to use force in response to resistance.

**De-escalation Techniques** - Communicative or other actions used by officers, when safe, and without compromising law enforcement priorities, that are designed to increase the likelihood of gaining voluntary compliance from a non-compliant subject, and reduce the likelihood of using force in response to resistance. The techniques used, such as the use of distance, cover, and tactical repositioning, must be proportional to the threat encountered.

**Defensive Resistance** – Physical actions that attempt to prevent the officer’s control, but make no directed attempt to harm the officer. At this level of resistance, the subject tenses their muscles or attempts to push or pull away in a manner that does not allow the officer to establish control.

**Force** - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force in response to resistance when a person allows themselves to be searched, escorted, handcuffed or restrained.

**Less-Lethal Force** - Any application of force other than lethal force.

**Lethal Force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or serious bodily injury. (Tex. Penal Code § 9.01(3))

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Neck Restraints** - Any technique used to apply external pressure to the neck that impedes a person’s ability to breathe, deprives the brain and/or body of oxygen, and/or impedes blood flow.

**Objectively Reasonable** - An objective standard in determining the necessity for force and the appropriate level of force viewed from the perspective of a reasonable officer on the scene, without the benefit of 20/20 hindsight, and within the limitations of the totality of the circumstances presented at the time of the incident, including, but not limited to, the severity of the crime at issue, the tactics employed, whether the suspect poses an immediate threat to the safety of officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

**Passive Resistance** – A person’s refusal to comply with a lawful order that does not include any physical act, verbal statement, or pre-fight behavioral indicators that would cause an officer to believe that there is an immediate risk of bodily injury to any person.

**Serious Bodily Injury** - Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ (Tex. Penal Code § 1.07(a)(46)).

### 300.2 POLICY

The use of force in 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.

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. The standard in determining the necessity for force and the appropriate level of force will be viewed from the perspective of a reasonable officer on the scene, without the benefit of 20/20 hindsight, and within the limitations of the totality of the circumstances presented at the time of the incident, including, but not limited to, the severity of the crime at issue, the tactics employed, whether the suspect poses an imminent threat to the safety of officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

300.2.1 DUTY TO INTERCEDE
All officers and employees, regardless of rank, tenure, or level of training, have the duty and responsibility to intervene in any other officer's or employee's use of unreasonable force. Any officer or employee present and observing another officer or employee 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 or employee who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.2.2 RESPONSE TO RESISTANCE RELATED ORDERS
- Biased Based Policing
- Canines
- Contacts and Detentions
- Control Devices
- Electronic Control Weapons
- Foot Pursuits
- Handcuffing and Restraints
- Officer Involved Shootings and In-Custody Deaths
- Response to Resistance Review Boards
- Vehicle Pursuits

300.3 DE-ESCALATION OF POTENTIAL FORCE ENCOUNTERS
De-escalation is the preferred, tactically sound approach in many critical incidents. When safe and reasonable under the totality of circumstances, officers shall use de-escalation techniques
to reduce the likelihood of force and increase the likelihood of voluntary compliance. Nothing in this de-escalation policy requires an officer to place themselves in harm’s way to attempt to de-escalate a situation. Recognizing that circumstances may rapidly change, officers may need to abandon de-escalation efforts after they have commenced. Understanding that no general order can realistically predict every situation an officer might encounter, the Department recognizes that each officer must be entrusted with well-reasoned discretion in determining the reasonable de-escalation techniques to use in a situation. This de-escalation policy is intended to complement, not replace or supersede, other portions of the DPD General Orders Manual or specific officer training that addresses de-escalation. Officers shall be required to receive training on key de-escalation principles.

300.3.1 ASSESSMENT AND DE-ESCALATION

As officers arrive on the scene, observe conditions, and interact with the persons there, they should continue to gather additional relevant information and facts. These assessments, along with reasonable inferences help to develop an understanding of the totality of the circumstances of the incident and of the threat.

(a) Assessing Risks and Benefits – After an officer has gathered sufficient information to ascertain anticipated threats at the scene, they shall consider whether de-escalation is appropriate. Factors that should be considered are:

1. Whether the officer believes the search, arrest or transportation must be undertaken immediately;
2. What risks and benefits may be associated with delaying immediate action;
3. What contingencies may arise;
4. Whether the situation requires a supervisor’s response;
5. Whether other officers may be needed on the scene, including those with special training, such as Mental Health Peace Officers;
6. Whether other resources (e.g. control devices, special equipment, or other emergency professionals, interpreters or other persons) are needed; and
7. Other factor(s) relevant to assessing risks, benefits and contingencies.

Having completed the above outlined assessment, the officers shall, if reasonable, identify and employ appropriate de-escalation techniques.

(a) Use of De-escalation Techniques – Employing de-escalation techniques may involve securing additional resources, tactical repositioning (e.g. obtaining distance and cover), and employing verbal persuasion.

1. Securing Additional Resources -- Officers may utilize additional resources which are reasonably calculated to lessen or possibly eliminate the need to use force in a situation. To the extent possible and reasonable, in light of the totality of the circumstances, officers should avoid physical confrontation until such time as additional resources have arrived to assist. Additional resources may include:

(a) Control devices;
(b) Additional officers;
(c) Officers with special training, such as Mental Health Peace Officers; or
(d) Any other persons whose presence may help de-escalate the situation (e.g., emergency medical professionals, interpreters, or supportive family members).

2. Tactical Repositioning -- To delay or avoid physical confrontation, officers may wish to employ any one or more of the following tactical repositioning measures, to the extent possible and reasonable in light of the totality of circumstances:
   (a) Maintain safe physical distance from the subject;
   (b) Maintain cover behind existing or assembled physical barriers; or
   (c) Communicate from a location that is concealed from the subject.

3. Verbal Persuasion -- To the extent possible and reasonable under the totality of the circumstances officers may use one or more of the following verbal techniques to try to calm an agitated subject and promote rational decisions:
   (a) Listen to the subject’s side of the story and permit them to express frustration;
   (b) Explain what the officer is doing, what the subject can do, and what needs to happen;
   (c) Explain why the officer is taking a specific action, again permitting the subject to respond and acknowledging their perspective;
   (d) Treat the subject with dignity, the way the officer would wish to be treated if they stood in the subject’s shoes;
   (e) If possible, provide the subject with alternatives, even though those alternatives may be limited;
   (f) Advise the subject of the consequences for noncompliance;
   (g) Offer advice if it is reasonably expected to help; or
   (h) Provide the subject with reasonably sufficient time within which to respond to directives.

300.4 RESPONSE TO RESISTANCE
Officers shall use only that amount of force in response to resistance that reasonably appears necessary given the facts and circumstances perceived by the officer 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.
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Given that no general order can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in 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 this 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 order requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

Officers shall not use lethal force where the only basis for using the lethal force is that the individual posed a threat of committing, or committed, a serious, violent crime prior to the encounter with police. Officers are only authorized to use lethal force against a person who currently and actively poses an imminent threat of death or serious bodily injury to other persons and/or the law enforcement officer, and after all other reasonable means have been exhausted.

300.4.1 RESPONSE TO EFFECT AN ARREST
Officers may use reasonable force to effect an arrest, search, prevent escape or overcome resistance. If it is not reasonably apparent to the person to be arrested, or it is not reasonably impracticable to do so, officers should make clear their intent to arrest or search, and identify themselves as peace officers, before using force (Tex. Penal Code § 9.51).

300.4.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE
When determining whether to apply force and evaluating whether an officer has used reasonable force in response to resistance, 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) Seriousness of the suspected offense or reason for contact with the individual;
(d) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects);
(e) The effects of drugs or alcohol;
(f) Individual’s mental state or capacity;
(g) Proximity of weapons or dangerous improvised devices;
(h) The degree to which the individual has been effectively restrained and their ability to resist despite being restrained;
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(i) The availability of other options and their possible effectiveness;
(j) Training and experience of the officer;
(k) Potential for injury to officers, suspects and others;
(l) Whether the individual 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 individual 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 individual or awareness of any propensity for violence; or
(q) Any other exigent circumstances.

300.4.3 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 individual can comply with the direction or orders of the officer;
(c) Whether the individual has been given sufficient opportunity to comply;
(d) The potential for injury to the officers or others if the technique is not used;
(e) The potential for serious bodily injury to the individual being controlled;
(f) Whether the pain compliance technique is effective in achieving an appropriate level of control;
(g) The nature of the offense involved;
(h) The level of resistance of the individual(s) involved;
(i) The need for prompt resolution of the situation; and
(j) If time permits (e.g., passive demonstrators), other reasonable alternatives.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.4.4 NECK RESTRAINTS
There are multiple names and types of neck restraints referred to by law enforcement when they are applying pressure to the neck of a criminal suspect, such as Lateral Vascular Neck Restraints, Carotid Restraints and chest compressions. Any type of external pressure applied to the neck
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impedes the passage of air and/or the blood flow of the individual it is applied to. Such external pressure can collapse the airway, cause internal damage to the neck, block venous return or arterial flow, or lead to related health consequences. Pressure to the neck of an individual is explicitly prohibited, with the exception of lethal force situations.

300.4.5 USE OF FORCE TO SEIZE EVIDENCE
In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. The use of any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted, such as the LVNR is explicitly prohibited. Officers are only authorized to use techniques and methods taught by the Denton Police Department for this specific purpose.

(a) Pressure point techniques are the maximum amount of force authorized to seize evidence (e.g., narcotics) when there is probable cause to believe it is being held or hidden in the mouth of a subject.

300.5 LETHAL FORCE APPLICATIONS
Use of lethal force is justified in the following circumstances involving imminent threat or imminent risk:

(a) An officer may use lethal force to protect themselves or others from what they reasonably believe would be an imminent threat of death or serious bodily injury.

(b) An officer may use lethal force to stop a fleeing subject when the officer has probable cause to believe that the individual 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 individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of lethal force, where feasible.

(c) Lethal force is prohibited against individuals who pose a danger only to themselves and not to other members of the public or to officers. Available less lethal options shall be considered in these situations. Officers should be prepared to exercise considerable discretion to take as much time as necessary to resolve a situation peacefully.

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 that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so. Officers shall issue a verbal warning prior to discharging their firearm, unless doing so would not be reasonable.
300.5.1 SHOOTING AT OR FROM MOVING VEHICLES
The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances meet the requirements authorizing the use of lethal force. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a lethal weapon. Officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. Officers should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if lethal force other than the vehicle is directed at the officer or others.

300.6 REPORTING THE RESPONSE TO RESISTANCE
Any response to resistance by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why they 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 general orders, procedure or law.

300.6.1 NOTIFICATIONS TO SUPERVISORS
Supervisory notification shall be made as soon as practicable following any force incident or allegation of force, including but not limited to 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 Electronic Control Weapon or control device;
(f) Any application of a restraint device other than handcuffs, shackle or belly chains;
(g) The individual subjected to the force was rendered unconscious;
(h) An individual was struck or kicked; or
(i) An individual alleges any of the above has occurred.

Except in the case of mitigating circumstances, supervisors are required to immediately respond to an incident scene where an officer has used any less-lethal force and initiate an investigation. Additionally, supervisors are required to immediately respond to any scene where:

(a) A weapon (including firearm, edged weapon, rocks, or other improvised weapons) is reported;
(b) A person experiencing a mental health crisis is reported; or
(c) A dispatcher or other member of the department believes there is potential for significant use of force.

Any response to resistance by a member of this department (including a hand or leg technique, control device, lethal weapon, weapon of opportunity, or any instance where injury is observed or alleged by a subject that is the result of an officer’s response to resistance) shall be documented promptly, completely and accurately in an appropriate report as prescribed by the Response to Resistance Review Boards General Order.

**300.7 MEDICAL CONSIDERATIONS**

Officers shall promptly request medical assistance as soon as it is safe and practical to do so following a force incident. Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Officers shall monitor the individual's airway and assist, as necessary, in moving the individual on the ground into a seated position. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until they can be medically assessed.

Based upon the officer’s initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, 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 the on-scene supervisor is 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).

Individuals 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 and have medical personnel stage away (see the Medical Aid and Response General Order).

**300.8 ASSISTING MEDICAL PROFESSIONALS**

An officer who restrains a patient to assist medical personnel under a doctor’s order, with an amount of force which does not rise above the level of holding the patient down (e.g. arms, legs, foot, torso) is not required to report a response to resistance or notify their supervisor.
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(a) Medical personnel are:
   1. Medical staff at a medical facility; or
   2. Licensed emergency medical technicians (EMT), phlebotomist, or other medical professional in performance of their official medical duties.

(b) If an officer uses a level of force greater than merely holding a limb or applying bodily weight on the patient, the officer will:
   1. Notify their supervisor, and
   2. Complete an incident report including the appropriate title code and the response to resistance form.

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

(a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

(c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived their Miranda rights, the following shall apply:
   1. The content of the interview should not be summarized or included in any related criminal charges.
   2. The fact that a recorded interview was conducted should be documented in a report.
   3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

(d) Once any initial medical assessment has been completed 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.
   1. 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 and approve all related reports.

(g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.
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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.

300.9.1 LIEUTENANT RESPONSIBILITY
The Lieutenant shall review each response to resistance by any personnel within their command to ensure compliance with this order and to address any training issues.

300.10 TRAINING
Officers will receive periodic training on this order and demonstrate their knowledge and understanding.

Supervisors will receive training on how to conduct response to resistance investigations.

300.11 RESPONSE TO RESISTANCE ANALYSIS
At least bi-annually, the Assistant Chief of Police should prepare an analysis report on response to resistance incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

(a) The identification of any trends in the response to resistance by members;
(b) Training needs recommendations;
(c) Equipment needs recommendations; and
(d) General order revision recommendations.