



# Allen Police Department General Order

## Chapter 800

### RESPONSE TO FORCE / AGGRESSION

**NOTE: This General Order is for internal use only, and does not enhance an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this General Order, if proven, can only form the basis of a complaint by this Department and only in a non-judicial, administrative setting.**

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#### **I. PURPOSE**

The purpose of this policy is to provide structured guidance to officers so they can effectively utilize objectively reasonable options to handle resistance and acts of aggression. In addition, the department will be prepared to respond, document and track incidents in which officers respond to acts of resistance and aggression.

#### **II. DETERMINING THE USE OF OBJECTIVELY REASONABLE FORCE**

An officer's response to resistance or aggression should be determined based on the totality of the circumstances during the incident as known by the officer at the moment the force is used. Objective reasonableness is based on the reasonableness of a particular response to resistance/aggression which must be judged from the perspective of the officer on the scene, and formulated with an allowance for the fact that police officers are often forced to make split second decisions about the amount of force necessary in a particular situation.

Based on the reasonableness standard, the following considerations contribute to a determination of reasonable force:

- A. The severity of the crime;
- B. The nature and extent of the threat posed by the subject;
- C. The degree to which the subject resists arrest or detention; and any attempts by the subject to evade arrest by flight.

### III. POLICY

- A. Officers are expected to exercise control over subjects while carrying out their sworn duties. In many instances, this involves responding to subjects resisting the officer's attempts to carry out those duties as prescribed by law. While it is impossible to specify a particular method of response in every force encounter, it should be the goal of each officer of the department to respond in a professional and objectively reasonable manner. Officers need to be prepared to articulate the situational information justifying the reasonableness of their actions when responding to resistance and aggression.
- B. The Department recognizes and values the protection and sanctity of each human life. Investing police employees with the lawful authority to use force to protect the public requires a careful balance and consideration of all human interests. Therefore, it is the policy of this Department that persons authorized to use force, in conjunction with their assigned duties, shall use only that force that is objectively reasonable to effectively bring an incident under control, while protecting the lives of the employee or another. Officers are prohibited from using force unreasonably or as a means of punishment or interrogation.
- C. The primary concern when excessive force has been applied shall be objective reasonableness in its application, as judged by the on-scene officer. In evaluating the reasonable application of force, officers should consider all facts and circumstances known by the officer at the time of the incident to form the basis for a response to resistance or aggression. Circumstances to be considered by an officer when responding to resistance or aggression include, but are not limited to the following:
1. age;
  2. physical size;
  3. strength;
  4. skill level;
  5. training;
  6. proximity of weapons;
  7. risk of escape;
  8. state of health;
  9. fatigue;
  10. number of officers as opposed to the number of actors;
  11. influence of drugs / alcohol;

12. mental capacity;
  13. the degree to which the subject has been effectively restrained and his ability to resist despite restrained;
  14. time and circumstance permitting and the availability of other options (what resources are available to the officer under the circumstances);
  15. potential for injury to subjects; and / or
  16. there are exigent circumstances.
- D. Training shall be conducted over this policy at least annually.

#### IV. DEFINITIONS

- A. Active Aggression: Physical actions or assaults against the officer or another person with less than deadly force
- B. Bodily Injury: Means physical pain, illness or any impairment of physical condition.
- C. Deadly Aggression: With or without a weapon, there is probable cause to believe that the subject poses an immediate threat of serious physical harm or death to the officer or others.
- D. Deadly Force:
1. Deadly force is allowed to affect an arrest only if lesser means of force cannot, under the circumstances, be reasonably expected to stop the actor and the following conditions must apply:
    - a. there is probable cause to believe that the subject poses an immediate threat of serious physical harm or death to the officer or others; and
    - b. when the threat is over, the use of deadly force must cease.
- E. Defensive Resistance: Any action by a subject that attempts to prevent an officer from gaining control of the subject (for example, pulling/pushing away, resistance to handcuffing, to defeat the escort position, etc.).
- F. Excessive Force: Force is excessive when its application is inappropriate based on the totality of the circumstances, resulting in bodily injury, serious bodily injury or death.
- G. Extreme Circumstance: The need for the immediate protection of life, when circumstances do not allow for any other reasonable option(s).

- H. Firearm: Any weapon from which a projectile is forcibly ejected by an explosive.
- I. Force: That amount of active power, strength or energy which is necessary to overcome an actor's resistance.
- J. Impact Weapon: Any object, regardless of its original manufactured purpose, which can be utilized to strike a person with sufficient force so as to cause bodily injury, serious bodily injury or death.
- K. Less Lethal Force: Force employed which is neither likely, nor intended to cause serious bodily injury or death.
- L. Officer: This term may be used to include both police officers, detention officers, and public safety officers as applicable, to the specified response to resistance / aggression.
- M. Officer Presence: Best illustrated when the officer arrives at the scene and the person knows that the individual who has just arrived at the scene is a police officer because of the marked patrol vehicle, the uniform or the visible badge.
- N. Passive Resistance: Any type of resistance where the subject does not attempt to defeat the officer's attempt to touch or control the subject, but still will not voluntarily comply with verbal and physical attempts of control.
- O. Physical Control: achieving compliance or custody of a person through the use of empty hand control and restraint techniques, striking techniques, pressure point techniques, handcuffs, defensive tactics, wrist locks, takedowns, etc.
- P. Reasonable Belief: When facts or circumstances the officer knows or should know, are such as to cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- Q. Serious Bodily Injury: A physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement or impairment of the function of any bodily organ or limb.
- R. Taser - An electro-muscular disruption device that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction to a subject.
- S. Texas Code of Criminal Procedure, Article 15.24. What force may be used. In making an arrest, all reasonable means are permitted to be used in effecting that arrest. No greater force, however, shall be resorted to than is necessary to secure the arrest and detention of the accused.
- T. Use of Police Vehicles: The use of a police vehicle to force a fleeing subject to stop or the use of a police vehicle as deadly force, shall only be utilized if it does not create an unreasonable risk of use to others.

- U. Verbal Commands: Telling or commanding a subject to engage in, or refrain from, a specific action or non-action.

## V. OFFICER RESPONSES TO RESISTANCE / AGGRESSION

The goal of an officer when responding to resistance/aggression is to achieve compliance from the subject. It shall be the officer's responsibility to apply the appropriate response to resistance/aggression in an objectively reasonable manner based on the totality of the circumstances known to the officer at the time of the resistance/aggression.

The Department provides officers with various options to use in response to a subject's resistance/aggression. While resistance/aggression situations are generally fluid and dynamic, the officer's level of response should be based on objective reasonableness rather than a continuum. The following, non-exclusive, response levels may be considered by the officer when responding to resistance/aggression:

- A. officer presence;
- B. verbal commands;
- C. physical control;
- D. less lethal force; and
- E. deadly force.

## VI. WEAPONS

- A. In the course of official duty, it is imperative that a police employee act within the boundaries of law, professional ethics, good judgment and accepted practices. It is equally important that the employee be prepared by training, leadership and direction to act wisely when using a firearm or any other prescribed response to resistance / aggression. For these reasons, each commissioned employee must be given a copy of this General Order and properly trained in this Department's policy on Response to Resistance / Aggression before being authorized to carry a firearm or be placed in any situation that may result in the response to resistance/aggression by an officer.
- B. Except under the most extreme circumstances, no employee shall use or attempt to use any technique, tactic or weapon for which he or she has not been fully trained. Training must have been accomplished in a manner approved by the Department.
  - 1. Chemical Agent Weapons
    - a. Chemical agents are used to gain control while minimizing potential injury to the officers, offenders and other subjects.
    - b. Employees are not permitted to use a chemical agent weapon unless qualified in its proficient use as determined by training procedures.

- c. Use of Chemical agents must be supported by articulable facts detailing that it was used in an objectively reasonable manner.
  - d. The following are prohibited uses of chemical agents:
    - 1. horseplay or practical jokes;
    - 2. demonstrations without the permission of a supervisor; or
    - 3. while the subject is under physical restraint unless the subject is still aggressively resisting and lesser means of control have failed.
  - e. The following chemical agent weapons are authorized:
    - 1. O.C. pepper spray
    - 2. Specialized units may use other non-deadly weapons if trained and approved by the Chief of Police.
  - f. It shall be the responsibility of the employee receiving the training to ensure that a copy of all training documentation is forwarded to the Department's Training Coordinator. The documentation shall be forwarded immediately following the completion of any training class, and before the use of that particular level of force is employed.
2. Electronic Control Device (Taser)
- a. Only personnel who are trained in the use of the Taser and are qualified in its proficiency may be issued a Taser.
  - b. It shall be the responsibility of the employee receiving the training to ensure that a copy of all training documentation is forwarded to the Training Coordinator. The documentation shall be forwarded immediately following the completion of any training class, and before the use of that particular level of force is employed.
  - c. Only personnel who are trained in the use of a taser may deploy the taser.
  - d. The taser may be deployed to protect the officer or another from a dangerous animal that poses a threat to the officer.
  - e. The taser may be deployed on suicidal individuals who pose a threat to themselves or others and the use of the device is likely to prevent or reduce injury to the suicidal subject or others.

- f. Officers should make every effort to place the subject into custody immediately after a taser deployment. Repeated, lengthy, or simultaneous deployments from multiple officers with the taser are not allowed unless the officers can articulate and justify the objective reasonableness of the actions.
- g. Officers deploying the taser should attempt to deploy the probes in a primary target area and avoid sensitive tissue areas such as the eyes, groin, face and/or breast.
- h. At all times when practical, an officer should be issuing loud verbal commands in an attempt to gain voluntary compliance by the actor before deploying the taser.
- i. Use of the drive stun is discouraged except in situations where the probe deployment is not possible and the immediate application of the drive stun will bring a subject displaying aggressive resistance safely under control. Multiple drive stuns are discouraged and must be justified and articulated. If the initial application is ineffective, the officer will reassess the situation and consider other available options.
- j. The taser shall not be deployed under certain circumstances:
  - 1. when flammable liquids are present;
  - 2. for use as punitive measures; or
  - 3. on a subject who could fall from an elevated position.
- k. Unless objective reasonableness based on the totality of the circumstances can be articulated, the taser shall not be used under the following situations:
  - 1. in response to passive resistance only;
  - 2. while the subject is holding a firearm;
  - 3. if the subject is obviously pregnant;
  - 4. if the subject is handcuffed;
  - 5. if the subject is in a wheelchair;
  - 6. if the subject is elderly;
  - 7. if the subject is a child;
  - 8. subjects who are fleeing; and / or

9. while the subject is operating a motor vehicle.

1. Handling and Maintenance of the taser.

1. Officers shall check the taser prior to the start of their shift in the designated testing area to ensure a battery level of at least twenty percent (20%).

2. Officers shall carry the taser in a department issued holster on the opposite side of the duty handgun.

3. The taser's battery shall be changed on a regular basis by the officer when needed or when there is a software update.

4. Any deployment of the taser, either by probe deployment or drive stun will be documented in the department's Response to Resistance / Aggression form (APD-31).

5. A supervisor shall be notified as soon as possible upon deployment of the taser.

6. Only taser trained personnel may remove the probes from subjects, unless the probes have struck a sensitive tissue area such as the groin, throat, face, eyes or breast. If a sensitive area is struck, emergency medical personnel shall be called to the scene to remove probes.

7. If a probe is positioned in a manner that cannot be safely removed by certified personnel or if the subject is displaying signs of physical or mental distress, emergency medical personnel shall be called to the scene.

8. Used probes shall be placed in a sharps container and disposed of as bio hazard waste.

C. Impact Weapons

1. Employees are not permitted to use an impact weapon unless qualified in its proficient use as determined by training procedures.

2. The following less lethal weapons are authorized:

a. expandable baton;

b. Penn Arms 40 mm multi launcher foam projectile; and

c. other munitions may include, but are not limited to wood, foam, bean bag munitions, and rubber projectiles (utilized primarily by Special Weapons and Tactics members).

3. It shall be the responsibility of the employee receiving the training to ensure that a copy of all training documentation is forwarded to the Department's Training Coordinator. The documentation shall be forwarded immediately following the completion of any training class, and before the use of that impact weapon is employed.

D. Deadly Weapons

1. While on-duty, officers shall carry only weapons and ammunition authorized by the Department.
2. Authorized weapons are those with which the officer has qualified and received Departmental training on proper and safe usage and that are approved and comply with Departmental specifications.
3. The Department shall schedule regular training and qualification sessions for duty and specialized weapons. These sessions will be graded on the basis as described by the Department's Range Master and firearms instructor(s).
4. Officers who fail to receive a passing score with their duty weapons, in accordance with Department qualification procedures, shall be relieved of their police powers and immediately assigned to non-enforcement duties.
5. An officer shall not be permitted to carry any weapon with which he has not been able to qualify during the most recent qualification period.
6. Any officer who has taken extended leave or suffered an illness or injury that could affect his use of firearms ability will be required to re-qualify, before returning to enforcement duties.

**VII. PROCEDURES**

- A. Police officers shall not unreasonably or unnecessarily endanger themselves or the public when applying this policy.

B. Medical Treatment

Anytime force is used, injuries can occur to the employee, subject or innocent third party. officers should be prepared to administer first-aid when appropriate. An ambulance may be called any time a person claims injury regardless of the force used.

1. Officers shall summons an ambulance:
  - a. anytime chemical agents are utilized and a person is contaminated;
  - b. incidents where an expandable baton was used to forcibly strike someone;

- c. for any person struck by bean bag munitions; or
- d. in the case of the deployment of deadly force.

C. Investigations: Less Lethal Force

1. All Response to Resistance / Aggression investigations shall be conducted by personnel assigned to the Professional Standards Unit Division, at the discretion of the Chief of Police.
2. Facts or circumstances, unknown to the officer, shall not be considered in later determining whether the force was justified. The Department expects all officers to employ the force reasonably necessary to accomplish a legal purpose, in all applications of force.
3. Anytime a chemical agent, impact weapon, or apprehension of a subject by a police K-9 or police employee results in an injury or claimed injury of any person, a Response to Resistance / Aggression Form (APD-31) shall be completed. The immediate supervisor of the officer(s) utilizing the response to resistance / aggression will be responsible for completing the form and routing it as specified herein.
  - a. The supervisor shall act in a fact-finding capacity, to gather as much information as possible so that a decision can later be made as to whether or not a formal investigation is warranted.
    1. The supervisor will fill out the form as completely as possible and shall have the officer(s) involved complete the portion of the form intended for the employee's narrative.
    2. The supervisor will not render a decision as to whether or not the response to resistance / aggression was appropriate, nor will he recommend any disciplinary action.
    3. The employee's supervisor will then forward the completed form through their chain of command.
  - b. If the incident involves a member of the Department of the rank of Corporal or above, the next highest ranking officer should respond to complete the Response to Resistance / Aggression report unless authorized by the Chief of Police or their designee.
  - c. The Deputy Chief or their designee shall review the form for completeness, verifying that all pertinent information has been included and that all relevant questions have been answered, including those found in Section III, C, 1-16 of this General Order.

1. If the initial investigation by the employee's supervisor requires additional information, the Deputy Chief or their designee shall return the form, with specific instructions, to the supervisor.
  2. When the Deputy Chief or their designee believes that the form is complete, they will indicate a recommendation as to whether or not an internal investigation is warranted and shall forward the form to the remaining Deputy Chiefs for review. If additional information is required, the reviewing Deputy Chiefs will return the form, with a request for additional information to the submitting Deputy Chief or their designee.
  3. When all Deputy Chiefs have reviewed the report and recommendations have been made, they will forward the completed form to the Professional Standards Unit.
- d. The Professional Standards Unit will be responsible to assign and maintain administrative control numbers of all Response to Resistance / Aggression Report forms.
  - e. The Professional Standards Unit shall transcribe information, as required, from the Response to Resistance / Aggression Report to the affected employee's history file.
  - f. Completed Response to Resistance / Aggression Report forms shall be filed in the Professional Standards Unit in a designated file. The forms will be retained for a period of five (5) years and may be destroyed, in the sixth year, as prescribed by the City's Records Retention and Destruction Policy.
  - g. An annual report will be completed each year by the Professional Standards Unit which will document and analyze all reported uses of force for that year.

D. Investigations: Firearms Discharges

1. Shooting incidents associated with training, target practice, hunting and ballistic examinations require no investigation.
2. An employee's supervisor shall conduct a preliminary investigation into shooting incidents associated with the destruction of an animal or a negligent discharge with no injuries. The findings of these investigations shall be submitted to the Chief of Police, through the chain of command. Personnel assigned to Professional Standards Unit shall follow-up with a formal investigation of the incident.
3. At the direction of the Chief of Police, Professional Standards Unit personnel shall investigate any firearms discharge by an employee.

4. Any employee(s) who are involved or witness a negligent or intentional discharge of a weapon shall submit a written report of the incident. The report shall be completed and approved by a supervisor before the end of that tour of duty.

E. Deadly Force

1. The policy of this Department shall be in accordance with applicable State and Federal laws, with the following limitations:
  - a. An officer may use deadly force only when he or she reasonably believes it is necessary in the defense of his life or the life of another person.
    1. An officer may not use deadly force to stop an actor who poses no immediate threat to the safety of the officer or another person.
    2. The use of deadly force is not authorized for any misdemeanor offense.
  - b. Whenever possible, an officer shall give a verbal warning prior to the use of deadly force.
  - c. Warning shots shall not be discharged.
  - d. Shots at or from moving vehicles will not be discharged except in extreme circumstances and only as a reasonable response to deadly aggression. Officers shall not voluntarily or recklessly place themselves in a position in front of an oncoming vehicle where deadly force is a likely outcome.
  - e. Firearms shall not be discharged when it appears likely that an innocent person may be injured.
  - f. The destroying of an animal is justified for self-defense, the defense of another person or when the animal is so badly injured that humanity requires its relief from further suffering. This action shall only be carried out after all attempts have been made to request assistance from those agencies responsible for the disposal of animals.
  - g. Except under the most extreme circumstances, no officer shall use or attempt to use any technique, tactic or weapon for which he has not been fully trained. Said training must have been accomplished in a manner approved by the Department.
  - h. Anytime a firearm is discharged against an individual a Response to Resistance / Aggression Report (APD-31) shall be completed.

F. Investigations: Deadly Force

1. The procedures, defined herein, regarding the investigation of deadly force incidents shall be used under the following circumstances:
  - a. Anytime an employee discharges a firearm in the performance of duty which results in the death or injury of any person; or
  - b. Anytime an employee discharges a firearm, in the performance of duty, in a manner that is intended to cause the death or injury of any person; or
  - c. Anytime an employee uses force, other than with a firearm, which results in the death or serious bodily injury to any person.
2. Involved Employee
  - a. The involved employee shall:
    1. when appropriate, render first aid and request an ambulance;
    2. notify Communications of the incident and location;
    3. remain at the scene until directed to another location by a competent authority; and
    4. if possible, protect all evidence, including any weapon(s) used.
  - b. Any employee who uses deadly force resulting in serious bodily injury or death will be placed on administrative leave and assigned to the Professional Standards Unit until the completion of the internal investigation or as directed by the Chief of Police.
  - c. At the direction of the Chief of Police, any employee who uses deadly force resulting in serious bodily injury or death may be placed on administrative leave and assigned to the Professional Standards Unit until:
    1. the completion of the criminal investigation;
    2. the receipt of findings by the Grand Jury; and
    3. the receipt of findings by the Department designated Psychologist; and

4. the participation, of the employee(s) involved, in any type of post-traumatic counseling or therapy sessions as deemed appropriate by the Chief of Police.
- d. This leave shall be without loss of pay or benefits and shall not be interpreted to imply or indicate that the officer has acted improperly.
- e. Immediately following the incident, while under investigation, the employee shall remain available at all times. The employee shall not discuss the incident with anyone except:
  1. the District Attorney or their assistant and Departmental personnel assigned to the investigation; and
  2. the employee's private attorney, psychologist, chosen spiritual counselor and immediate family.
- f. Upon release from assignment to the Professional Standards Unit, the employee may be assigned to administrative duty for a period of time deemed appropriate by the Departmental psychologist or the Chief of Police.

3. Communications Procedure

- a. Upon receiving communication that an employee has been involved in a deadly force incident, as detailed herein, the on-duty Telecommunications Officer shall immediately dispatch the appropriate police personnel and / or other emergency service personnel to the location, as with any major crime scene.
- b. The on-duty patrol supervisor will be notified and will be responsible for making notifications in accordance with General Orders 3200.

4. Professional Standards Unit

The Allen Police Department's Professional Standards Unit is comprised of employee(s) selected by the Chief of Police. While the employee(s) may have other duty assignments, the Professional Standards Unit function shall take priority. When assigned a Response to Resistance / Aggression investigation by the Chief of Police, personnel assigned to a Professional Standards Unit shall conduct a thorough investigation to:

- a. determine if the response to resistance / aggression was within policy;
- b. evaluate the quality of supervision prior to, during and after the incident;

- c. evaluate training related to the drawing of the weapon, firing the weapon, tactics; and
- d. ensure that the criminal investigation is conducted thoroughly and objectively.

5. Criminal Investigation Division

- a. The Criminal Investigation Division shall conduct an investigation independent of the internal investigation and shall adhere to the same thorough standards of procedure utilized as in a major offense against a person.
- b. In the event that any response to resistance / aggression results in the serious bodily injury or death to an actor, the criminal investigation may be conducted by another agency, at the discretion of the Chief of Police.
- c. Personnel conducting the criminal investigation will coordinate with the District Attorney's Office to schedule a Grand Jury presentation, when appropriate. The Chief of Police will be kept informed as to the progress of the investigation.

G. K-9 Response to Resistance / Aggression

1. A K-9 may be used under circumstances during which a bite is likely to occur when probable cause exists to believe that the subject(s) can be charged with a serious misdemeanor or a felony offense. At all times, the K-9 handler shall give a verbal warning and afford the subject the opportunity to surrender before releasing the K-9.
2. Refer to General Order 2800 K-9 Unit.

H. Response to Resistance / Aggression by the Special Weapons and Tactics Team (S.W.A.T.)

1. During all operations, the use of less lethal and deadly force by the Special Weapons and Tactics (SWAT) shall be consistent with all portions of this General Order.

I. Drug Testing

1. In order to better protect the officer, the Department and the City of Allen, an employee may be ordered to submit to a drug screen urinalysis any time force is utilized that is reasonably calculated to produce death or serious bodily injury as defined in this General Order.
2. Weapon discharge drug testing may be ordered any time an employee discharges his weapon with the following exceptions:

- a. routine firearms training or legal, recreational purposes; or
  - b. use of a firearm to end the suffering of seriously injured or the destruction of a dangerous animal, when no other disposition is practical by following current departmental guidelines on the response to resistance / aggression.
3. It shall be the responsibility of the on-scene supervisor to make the determination as to whether the response to resistance / aggression requires a test and document why the force utilized was classified in that specific manner.
  4. The requirement to submit to the drug screen urinalysis may be ordered by the Chief of Police or his designee, under any circumstance regarding the response to resistance / aggression, regardless of any previous determination made.