

538 **RESPONSE TO RESISTANCE**

- I. **PURPOSE:** The Tampa Police Department recognizes that officers may encounter situations where response to resistance may be necessary to achieve a specific law enforcement objective.

The policy of the Tampa Police Department is to provide department personnel with a response to resistance policy that is concise, easily understood and consistent with prevailing law, to include F.S. §776.05, when acting within the capacity of a law enforcement officer.

When off duty and not acting within the capacity of a law enforcement officer, officers must act in accordance with current Florida State Statutes in reference to any response to resistance.

II. **DEFINITIONS:**

- A. **Sworn Member:** A member of the Tampa Police Department who is a certified police officer by the State of Florida and serves in that capacity or in the capacity of reserve officer. Hereafter referred to as “officer.”
- B. **De-escalation:** Taking action and/or communicating verbally or nonverbally during a potential force encounter to stabilize the situation and reduce the immediacy of a threat so that more time, options, and resources are available to resolve the situation using the least force necessary. De-escalation is also an effort to reduce or end the use of force after a threat has diminished. Officers should use advisements, warnings, verbal persuasion or other tactics as alternatives to higher levels of force.

Examples of De-escalation could include, but are not limited to:

- (i) Placing barriers between an uncooperative subject and the officer;
 - (ii) Containing a threat;
 - (iii) Moving from a position that exposes the officer to potential threats to a safer position;
 - (iv) Decreasing exposure to a potential threat by using backup, distance/time, cover/concealment;
 - (v) Communication from a safe position intended to gain the subject’s compliance, i.e. use of dialogue; or
 - (vi) Any other tactics and approaches that attempt to achieve law enforcement objectives.
- C. **Authorized Weapons:** Weapons provided or approved by the department which the officer has been trained and qualified to use.
- D. **Chemical Agent:** An approved substance that causes tearing and involuntary closing of the eyes. Typically, these are carried and deployed in aerosol form,

although other variations exist.

- E. Electronic Control Device (Taser): A device designed to disrupt a subject's nervous system by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.
- F. Expandable Baton: An impact weapon which collapses for storage on the duty belt and expands for use.
- G. Less-Lethal Impact Munitions: A less-lethal projectile fired from a designated launcher that imparts a kinetic energy transfer.
- H. Response to Resistance Guidelines: A framework for providing information to officers in decision making involving a reasonable response to resistance.
- I. Injury: Any complaint of injury whether visible or not.
- J. Less-Lethal Weapons: Weapons which, by design, and when properly employed are not considered likely to cause serious physical injury or death. Some less-lethal weapons include electronic control devices (Tasers), expandable batons, chemical agent sprays, police issued radios, and flashlights.
- K. FN303 Launcher: A less-lethal air or gas powered weapon which deploys a variety of impact and/or impact + chemical agent projectiles.
- L. Chokehold: A technique using arms or legs to restrain an individual which substantively restricts breathing or occludes both carotid blood vessels simultaneously. This shall not include brief contact with the neck or stabilization techniques that are not designed to prevent breathing or occlude both carotid blood vessels simultaneously.
- M. Objective Reasonableness: The legal standard used to determine the lawfulness of a response to resistance, is the Fourth Amendment to the United States Constitution (*Graham v Connor*, 490 U.S. 386 (1989)). Graham states in part, "The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split second decisions, in tense circumstances that are uncertain and rapidly evolving about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application." The response to resistance must be reasonable under the circumstances known to the officer at the time the force was used. Therefore, the Tampa Police Department examines all response to resistance incidents from an objective standard, rather than from a subjective standard.

- N. Resistance:
1. Passive Resistance: A subject's verbal and/or physical refusal to comply with an officer's lawful direction.
 2. Active Resistance: A subject's use of physically evasive movement directed towards the officer such as bracing, tensing, pushing, or pulling to prevent the officer from establishing control over subject.
 3. Aggressive Resistance: A subject's attacking movements toward an officer that may cause injury, but are not likely to cause death or serious bodily injury to the officer or others.
 4. Deadly Force Resistance: A subject's hostile, attacking movements with or without a weapon that create a reasonable perception by the officer that the subject intends to cause and has the capability of causing death or serious bodily injury to the officer or others.
- O. Physical Force: A level of force involving actual contact with a subject. The officer achieves compliance or custody through the use of empty-hand or leverage-enhanced techniques, such as pain compliance, transporters, restraint devices, take downs, and striking techniques.
- P. Deadly Force: Force that is likely to cause death or serious bodily injury.
- Q. Non-Deadly Response to Resistance: Response to resistance, which is neither likely nor intended to cause death or serious physical injury.
- R. Reasonable Belief: The facts or circumstances the officer has been presented with are such as to cause an ordinary and prudent person to conduct oneself in a similar way under similar circumstances.
- S. Situation Factors Used to Determine Reasonableness: The Tampa Police Department examines reasonableness using *Graham v Connor*, and from the articulated facts from the perspective of a Tampa Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Some situational factors include but are not limited to:
1. Severity of the crime or suspected offense;
 2. The level of threat or resistance presented by the subject;
 3. Is the subject an immediate threat to officers or citizens;
 4. The risk or apparent attempt by subject to escape;

5. Subject's combative skills;
 6. The availability of weapons or other resources to subject;
 7. The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
 8. The time available to the officer to make a decision;
 9. The training and experience of the officer;
 10. Number of subjects versus number of officers;
 11. Duration of confrontation;
 12. Officer/subject factors (size, age, weight, relative strength/skill level);
 13. The environmental factors and/or other exigent circumstances.
- T. Totality of Circumstances: The F.D.L.E./C.J.S.T.C. instructional tool which refers to all the facts and circumstances known to the officer at the time, or reasonably perceived by the officer as the basis for a response to resistance decision. The Totality of Circumstances includes consideration of the subject's form of resistance, all reasonably perceived factors that may have an effect on the situation, and the response options available to the officer.

III. AUTHORIZED RESPONSE TO RESISTANCE

- A. Deadly force shall be permitted only when other reasonable means to avoid the danger will likely be ineffective or have failed and the officer reasonably believes that deadly force is immediately necessary to defend himself/herself or another from imminent death or serious physical injury. SOP 537 (Deadly Force) describes the authorized use and reporting requirements. SOP 536 (Professional Responsibility and Philosophy of Enforcement) also describes the overall position of the department when using force.
- B. Non-deadly response to resistance may be applied if circumstances dictate; the officer shall use only the minimum level of force necessary to control the situation.
- C. Less-lethal weapons issued or approved by the department may be employed when their use is dictated by the level of physical resistance encountered.
- D. Officers should evaluate each resistant subject in light of facts and circumstances known to them at that particular time. De-escalation may not always be possible or practical. However, officers should make every attempt to look for opportunities to apply it based on time, options and resources taught during training. When safe and feasible under the totality of the circumstances, officers

should attempt to slow down or stabilize the situation. Officers should utilize appropriate tactical and officer safety principles to avoid unreasonably placing themselves at risk. Officers are authorized to use a higher level of force in order to control a resistant subject's action. Officers are reminded that "resistance" is often not sequential and they should respond as necessary.

1. Passive Resistance: A subject's verbal and/or physical refusal to comply with an officer's lawful direction.
 2. Active Resistance: A subject's use of physically evasive movement directed towards the officer such as bracing, tensing, pushing, or pulling to prevent the officer from establishing control over subject.
 3. Aggressive Resistance: A subject's attacking movements toward an officer that may cause injury, but are not likely to cause death or serious bodily injury to the officer or others.
 4. Deadly Force Resistance: A subject's hostile attacking movements, with or without a weapon, that create a reasonable perception by the officer that the subject intends to cause, and has the capability of causing, death or serious bodily injury to the officer or others.
- E. When a subject is in a prone position, officers shall not use a kick to overcome resistance or control a subject, unless deadly force is applicable. (See Legal Bulletin #2014-03 – Use of Force Issues.)
- F. Chokeholds are prohibited unless deadly force is justified.
- G. Officers who recognize an excessive response to resistance by other officer(s) have a duty to intervene for the purpose of preventing or stopping such action when they have the ability to do so.

IV. AUTHORIZED LESS-LETHAL WEAPONS:

- A. Electronic Control Device (Taser): A device designed to disrupt a subject's nervous system by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

Officers are authorized to remove either the OC spray or expandable baton from their duty belt when carrying an ECD, but not both. OC spray or an expandable baton will be kept available as a backup to the ECD in case of equipment malfunction.

- B. FN 303 Launcher: An air or gas powered weapon, which deploys a variety of impact and/or impact + chemical agent projectiles.
- C. Less Lethal Impact Munitions: A projectile fired from a designated launcher

that imparts a kinetic energy transfer.

D. Impact Weapons:

1. Expandable Baton:

- a. Officers will carry the issued expandable baton in an approved holder.

2. Secondary Weapons:

- a. In exigent circumstances an officer may be compelled to use an improvised impact weapon, such as a flashlight, radio, or other item. The same principles that dictate the use of the baton will apply with secondary or improvised impact weapons.

E. Chemical Agent:

1. Officers will carry a Department issued non-flammable chemical spray consisting of OC (Oleoresin Capsicum Solution) in a pressurized container with issued pouch, unless one of the following exists:

- a. The officer is carrying an expandable baton; or
- b. The immediate nature and tasks of the officer's assignment are such that it would be impractical to carry such weapons. This will be determined and authorized by the officer's immediate supervisor.

2. Officers that carry issued chemical agents must have successfully completed the department familiarization training course.

3. Non-sworn members of the department, when authorized by the Chief of Police, may carry and utilize O.C. spray in the same manner as sworn members. They must also have successfully completed the department familiarization training prior to carrying or using O.C. spray.

4. C.S. chemical agent may also be issued, carried and used in accordance with SOP 521.1.

F. Tactical Chemical Weapons and Specialty Munitions:

1. Tactical chemical weapons and specialty munitions may be utilized in accordance with SOP 382.3 (Mass Demonstrations and Civil Disorder).

2. Tactical chemical weapons and specialty munitions shall only be utilized by officers who have been trained in their use.

G. Special Weapons: Tactical Response Team (TRT) and Crowd Management

Group (CMG) personnel may employ devices or special weapons with which they have been trained while conducting operations, during high risk situations and/or during civil disturbances or mass demonstrations. Any uses must be within training guidelines and policies.

- H. Officers shall not carry any weapon not issued or approved by the department or with which they have not received training and demonstrated their proficiency.

V. PROFICIENCY TRAINING:

- A. Training in the use of physical force, and the use of each authorized less-lethal weapon, is required before the weapon may be carried.
- B. Annual review of response to resistance policies and procedures training is required in order to remain authorized to carry an intermediate weapon.
- C. Annual proficiency training will be documented and conducted by a certified weapons or tactics instructor.
 - 1. Remedial training will be provided to individuals who do not qualify/demonstrate proficiency prior to returning to full duty.
- D. Less-lethal weapons shall be inspected for proper operation annually.
- E. Training for less-lethal weapons shall be conducted on a biennial basis except for the Electronic Control Device which will be conducted annually.
- F. Firearms proficiency training shall be in accordance with SOP 643 (Firearms)

VI. RESPONSIBILITIES:

- A. Training Unit:
 - 1. Arrange for and issue less-lethal equipment to sworn employees as necessary.
 - 2. Maintain a sufficient supply of non-firearm weaponry for permanent and temporary issue to sworn employees.
 - 3. Repair, or arrange for repair, all malfunctioning departmentally owned equipment. Any weapon deemed unserviceable will be removed from service immediately, until such equipment is made serviceable.
 - 4. Update and maintain training files and other information systems as they pertain to the issuance of response to resistance related equipment, and response to resistance related training. These files will include, at a minimum, the type, manufacturer, model, description, serial number, and the name of the officer to which the weapon is issued, if any.

5. Develop and deliver de-escalation response to resistance related training and requalification.

B. Supervisors:

1. As part of their general responsibilities, supervisors must ensure that officers under their command are carrying only issued/authorized less-lethal equipment. They should periodically compare what weapons their officers are carrying with personnel and training records that detail the equipment they are authorized to carry.
2. All supervisors will on a regular basis conduct a weapons inspection of the officers in their charge. The results of these inspections will be documented and transmitted to the Inspection Log. Any weapon deemed unserviceable will be removed from service until repaired or made serviceable.

C. Officers:

1. Maintain at all times departmentally issued/authorized equipment, in a clean and serviceable condition. The officer shall report malfunctioning equipment to immediate supervisor, as soon as the malfunction is discovered.
2. Demonstrate proficiency with all weapons with which they are issued/approved for on or off-duty carry during their scheduled in-service training date, or at another time and place designated by the Training Unit.
 - a. If this requirement is not met, authorization to carry the weapon will be revoked.
3. Officers are prohibited from altering their issued/authorized weapons, or attaching any flashlight, laser, or other device, without written approval from the Personnel and Training Unit.
4. Less-lethal weapons issued or approved by the department may be employed when on-duty, or off-duty when in accordance with our on-duty policy, and their use is dictated by the level of physical resistance encountered. Officers involved in any off-duty incident in which lethal or less-lethal weapons were utilized will, immediately upon stabilization of the incident, notify communications and an on duty supervisor of the rank of lieutenant or above. All such incidents, regardless of jurisdictional location, will be fully documented.

VII. SPECIAL SITUATIONS:

- A. Aiming a firearm at an individual to gain compliance with verbal commands is considered a response to resistance and a Versadex Use of Force/Response to Resistance detail page will be completed.
- B. The proper use of handcuffs is considered a response to resistance and the incident will be documented within Versadex on a Use of Force/Response to Resistance detail page. The physical restraint of any subject (i.e. handcuffing, placing in patrol unit, placing subject in a holding cell, physically moving a subject from one point to another will be documented on a Use of Force detail page
- C. Reasonable physical force may be used to safely secure and transport a person in need of involuntary mental health services. These incidents will be documented in an incident report in Versadex on the Use of Force/Response to Resistance detail page.
- D. The use of K-9s will be guided by SOP 312 (Police K-9 Team Procedure, IV-1, Use of K-9).
- E. The use of TRT will be guided by SOP 382.4 (Barricaded Persons) and as indicated by department needs.

VIII. MEDICAL RESPONSE:

- A. Officers shall ensure prompt first aid is provided when an injury has occurred to individuals affected by the response to resistance, when the situation is no longer a threat to the officer or any other person.
- B. Emergency medical personnel shall be summoned if necessary. Persons in custody shall be accompanied as described in SOP 371 (Searching, Transporting, and Booking of Prisoners).
- C. Chemical Agents: Special attention is required to monitor the wellbeing of persons who have been exposed to chemical agents or electronic control devices (SOP 521, 521.1 and 521.2).

IX. REPORTING AND INVESTIGATION OF THE RESPONSE TO RESISTANCE:

- A. Any response to resistance, whether or not it results in injury, will be documented in Versadex on a Use of Force/Response to Resistance detail page. Details of this incident involving the response to resistance will be described in the narrative section of the incident report by each officer that applied any force on a subject. All reported response to resistance incidents will be reviewed by a supervisor before the report is submitted to Records.
- B. Supervisors shall be notified when force is used causing injury or a complaint of injury on a person. Supervisors are encouraged to take photographs of officers

and subjects when of evidentiary value.

- C. Supervisors shall be notified when any force is used that results in the death or life-threatening injury of a person. The supervisor shall ensure the following notifications are made:
 - 1. Shift Commander;
 - 2. Division Commander;
 - 3. Criminal Investigations Division;
 - 4. Professional Standards Bureau;
 - 5. Public Safety Information Officer;
 - 6. Legal Advisor;
 - 7. PBA Representative; and
 - 8. Critical Incident Stress Management Representative.
- D. The officer(s) shall be afforded the opportunity to use the services of the department's psychologist, chaplain, or any other component of the Employee Assistance Program (EAP) which may be available.
- E. Incidents involving discharge of a firearm shall be reported and reviewed as described in SOP 306 (Investigations Required by Policy - Shoot Team Investigations).

X. REVIEW OF RESPONSE TO RESISTANCE INCIDENTS:

- A. The High Liability Training and Evaluation Committee will monitor response to resistance techniques and tactics, to determine effectiveness of equipment and to identify training needs. It will also conduct an annual review of de-escalation policies and training.
- B. The Professional Standards Bureau uses response to resistance incidents as a qualifier for the Early Intervention Program (EIP) as outlined in SOP 651.1 (Early Intervention Program).
- C. The Training Unit will review response to resistance incidents and prepare the annual Response to Resistance Analysis requested by the chief of police.
- D. An employee whose response to resistance results in death or life threatening injury will be placed on Administrative Duty pending review of the incident by the State Attorney's Office and the chief of police.

Supersedes SOP 538, dated 6/20.