
	Florida State University Police Department	
Response to Resistance		
Revision Effective Date: 12/15/2020	General Order 601	Attachments: <i>Response to Resistance Form, Force Guidelines</i>
Rescinds/Amends: Amends: 601 (09/01/17), 04 (06/27/17, 2/11/14)	Distribution: Sworn Pages: 13	References: CFA 4.01; 4.02; 4.03; 4.04; 4.07; 4.08; 4.09 and 15.15 Florida Statutes, Section 776

Policy

A. Response to Resistance Policy [CFA 4.01]

The Department and its officers recognize the value of all human life. While the majority of officer/citizen interactions are peaceful, the Department recognizes there are limited circumstances when officers will face resistance to their lawful orders and efforts. The response to resistance, lethal or non-lethal, is one of the most serious circumstances and challenges facing any law enforcement officer. When officers are engaged in any response to resistance encounter, they are responsible for making the preservation of human life their first priority. Officers, in response to an actual confrontation or one that may immediately lead to different forms of resistance from an individual or group of individuals, shall use the amount of reasonable force necessary to take control of the situation for the purposes of apprehending a suspect and/or protecting life, limb, and property. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The question is whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”¹ Moreover, the force utilized shall comply with the provisions of this General Order and applicable laws.

Procedures

B. General Guidelines

1. Based on the totality of the circumstances, officers, when practical, should attempt to gain control of a response to resistance encounter by using verbal de-escalation techniques. A person’s voluntary compliance is the desired outcome of any officer-person encounter.
2. In any response to resistance encounter, officers shall use only the amount of force objectively reasonable, based on the facts and circumstances known or perceived by the officer at the time force is employed, to overcome and control the actions of resistive persons.
 - a. The reasonableness of the force employed must be judged from the perspective of a reasonable officer on the scene at the time of the incident and must allow for the fact police officers are often forced to make split-second judgments in tense,

uncertain and rapidly evolving circumstances about the amount of force necessary in a particular situation.

- b. The test of reasonableness is not capable of precise definition or mechanical application
 - c. Under certain circumstances, disengagement may be the best tactical option, for example, when the officer is waiting for backup, when the officer is injured or outnumbered, or when the suspect has superior firepower.
3. Officers shall only use Response to Resistance Options of Control/Force which are objectively reasonable to overcome resistance in order to accomplish lawful objectives, and officers are prohibited from using:
 - a. Unnecessary force, or
 - b. Excessive force
 4. In response to resistance situations, officers have a duty to intervene if they observe:
 - a. Another officer using unreasonable or excessive force, or
 - b. Circumstances which, based upon their training and experience, cause them to reasonably believe the use of unreasonable or excessive force is imminent. [CFA 4.01D]
 5. Officers who observe the use of unreasonable or excessive force shall notify their supervisor of the incident as soon as it is safe to do so.
 6. Officers are prohibited from applying any force against a compliant person (i.e., a person who is following lawful orders and offers no passive resistance, active resistance, aggressive resistance, or deadly force resistance).
 7. The guidelines in this written directive are intended for internal Department use only, and:
 - a. Do not create a higher legal standard of safety or care with respect to third parties, and,
 - b. Are not to be applied in any civil or criminal proceeding.
 8. A violation of this written directive will be grounds for administrative discipline only, while a violation of the law may be the basis for civil or criminal penalties.

C. Use of Deadly Force

1. Deadly Force Guidelines
 - a. Officers may use deadly force only when they believe it is objectively reasonable to defend their life or the life of another person from an imminent threat of serious injury or death.
 - b. Use of deadly force may be an officer's first and only appropriate response to a perceived threat.
 - c. When circumstances permit, a verbal warning shall be given prior to engaging in the use of deadly force. [CFA 4.01C]
 - d. The use of a motor vehicle to make deliberate contact with another vehicle is considered deadly force.

- e. The use of a vascular neck restraint technique (reducing the flow of blood through the carotid arteries to the brain), while not intended to cause death or great bodily harm, is considered deadly force and should only be used when deadly force is justified. [CFA 4.01A]
 - f. Choke holds are prohibited unless deadly force is justified. [CFA 4.10]
 - g. Firearms shall not be discharged at a moving vehicle unless:
 - i. A person in the vehicle is threatening the officer or another person with deadly force by means other than the vehicle;
 - ii. The vehicle is operated in a manner deliberately intended to strike an officer or another person, and all reasonable means of defense have been exhausted (or are not present or practical), which includes moving out of the path of the vehicle.
 - h. Firearms shall not be discharged from a moving vehicle except in exigent circumstances.
 - i. Officers shall not create an exigent circumstance that would require the application of deadly force.
2. Authorized use of Deadly Force
- a. When the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of death or serious physical injury. The threat must be immediate in nature with potential and probability for immediate consequences.
 - b. An officer may use deadly force to stop a felon fleeing from justice only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious physical injury, or the officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another.

D. Instruction in Response to Resistance General Order [CFA 4.02]

All officers of the Department are required to be instructed in and issued a copy of the Department's Response to Resistance General Order prior to being authorized to carry any weapon.

E. Requirement of State Certification [CFA 4.03]

Prior to assignment in any capacity in which an FSU PD officer may be authorized to carry a firearm or make an arrest, the officer shall have completed the Florida Basic Recruit Training Program (or its equivalent).

Sworn officers participating in the Department's formal Field Training Program under the auspices of a Temporary Employment Authorization are exempt from this requirement.

F. Prohibition Against Firing of Warning Shots [CFA 4.04]

The use of warning shots is prohibited. Refer to General Order titled, "Firearms," for further information regarding firearms use.

G. Reporting Response to Resistance [CFA 4.07]

1. A Response to Resistance report shall be completed by any officer that:
 - a. Draws, displays, or discharges any approved weapon, including all firearms and all less-lethal weapons, for any purpose other than training, approved firearms competition, recreational purposes (in the case of a personally owned weapon), or to submit to an authorized weapon inspection [CFA 4.07A and 4.07B].
 - b. Uses a weapon of necessity in the performance of lawful duty [CFA 4.07B].
 - c. Uses weaponless hard empty hand controls to overcome resistance, to include strikes, and takedowns. [CFA 4.07C].
 - d. When a response to resistance results in an injury, death, or complaint of injury to a subject.
2. With the exception of officer involved shootings and other deadly force incidents, Response to Resistance Reports shall be completed before the end of the reporting officer's tour of duty. In the event the officer is injured or unable to complete the report, the officer's immediate supervisor shall ensure the report is completed.
 - a. Obtaining a complete statement from an officer involved in a deadly force incident is essential to determining whether the officer responded appropriately to a threat. The department recognizes scientific studies concluding how physiological responses in the body during a traumatic event lead to immediate recall issues, the effects of trauma on event recall, and the benefits of sleep to improving memory of a traumatic event.
 - i. As a result, officers involved in a deadly force incident will not be required to complete their Response to Resistance Report until after experiencing a minimum of 2 sleep cycles. Officers may be interviewed sooner than 2 sleep cycles if the officer's legal counsel determines the officer could provide a complete statement.
 - ii. Officers will not discuss the deadly force incident with anyone other than their legal counsel or licensed mental health professional prior to making any statements.

In addition, the Response to Resistance Report shall be completed in its entirety and contain, at a minimum:

- a. The level of resistance encountered.
 - b. The officer's response to overcome the resistance.
 - c. A complete account of the incident, including any medical services or decontamination procedures required as a direct result of the incident.
 - d. The subject and situational factors that led the officer to believe their response to the subject's resistance was reasonably necessary.
3. An officer involved in a situation that would require a response to resistance report as defined in this section, (or another officer if more appropriate) shall, without unnecessary delay, notify a supervisor of the situation. A supervisor aware of the situation shall, without unnecessary delay, respond to the incident scene or other location if appropriate (e.g., hospital).

Supervisors are not required to respond to scenes where weapons are drawn to safely clear buildings unless the officers encounter some form of resistance.

H. Medical Aid [CFA 4.08]

Appropriate medical aid (EMS) should be contacted:

1. In all incidents involving deadly force. Medical aid should be summoned as soon as practical, but the scene shall be secured and determined safe for medical aid to approach prior to instructing them to enter the area.
2. In the case of obvious injury or complaint of injury by the arrestee after a response to resistance situation.
3. Any time an arrestee has been the subject of a Taser application, whether dart-fired or drive-stunned.

I. Review of Incidents [CFA 4.07, 4.09]

The determination of whether or not an officer's response to resistance was objectively reasonable must be done on a case-by-case basis. Several considerations, including those outlined by the United States Supreme Court in the case of *Graham v. Connor* may be used in such a determination. The Support Services Captain or designee shall conduct an initial review of all Response to Resistance reports submitted. A summary shall be prepared for each incident, outlining the basic events and containing a recommendation as to the appropriateness of the response. This summary shall be forwarded to the Chief. [CFA 4.07]

1. The Support Services Captain or designee shall conduct an annual administrative review and analysis of all Response to Resistance reports. The review will indicate whether policy, training, equipment, or disciplinary issues should be or were previously addressed. The review shall be submitted in writing to the Chief of Police. [CFA 4.09]
2. In any case involving deadly force, the review in this policy shall be conducted after the conclusion of any criminal or internal investigation.

J. Force Guidelines, Factors Affecting Response

The Department has adopted Force Guidelines as attached to this General Order. The Force Guidelines are to be used as a guide for officers in selecting reasonable, effective, and legally defensible actions in verbal and physical encounters.

1. The officer should strive to use only the response reasonably necessary to effect control over a subject, subjects, or a situation. As an individual increases his/her resistance level, the officer may have to increase the level of defensive response until the resistance ceases and the officer is able to regain control. As soon as the point of subject compliance is reached, the officer must de-escalate the response level to the reasonable defensive action necessary to maintain control over the subject. [CFA 4.01B]
2. In determining an objectively reasonable response to a subject's resistance, an officer must evaluate variables including, but not limited to:
 - a. The type and severity of the incident or crime at issue;
 - b. The subject posing an immediate threat to the officer or others;
 - c. Subject's physical resistance to an arrest or other lawful detention;
 - d. Subject's mental or psychiatric history, if known to the officer;
 - e. Subject's violent history, if known to the officer;
 - f. Subject's combative skills;

- g. The subject fleeing from an arrest or other lawful detention;
- h. The size, age, relative strength, skill-level and physical conditioning (including injury or exhaustion) of the subject and the officer;
- i. The officer's level of training and experience;
- j. The number of persons and/or number of officers on the scene;
- k. The duration of the incident, specifically in relation to the physical resistance offered by the subject;
- l. The time available to an officer to make a decision to use response to resistance levels of control/force;
- m. The subject's proximity or access to weapons;
- n. Environmental factors and other exigent circumstances; and
- o. The officer's perceptions at the time the decision to use force was made.

K. Deadly Force Incident Procedures

The Department shall conduct both criminal and administrative investigations into all incidents involving the use of deadly force. Officers of the Investigations Division shall conduct the criminal investigation and the Internal Affairs Lieutenant shall conduct the administrative investigation, unless otherwise ordered by the Chief.

1. In all incidents where deadly force results in death or great bodily harm, the following procedure shall be used. Immediately notify the Communications Section of the incident and request the appropriate supervisor to respond.
 - a. Ensure the scene is safe and no additional threats exist.
 - b. Determine the physical condition of any injured person and request emergency medical response.
 - c. Officers on scene will render aid consistent with their abilities, training and available equipment.
 - d. Secure the scene as well as time and available personnel permit.
 - e. Remain at the scene, unless injured, until the arrival of the appropriate supervisor. If the circumstances are such that the scene might cause a more hazardous situation to develop, the supervisor shall have the authority to instruct the officer to respond to an alternate location.
 - f. Protect his/her weapon(s) for examination and submit the weapon(s) to the supervisor when safe.
2. The supervisor arriving on the scene shall:
 - a. Ensure that the Chief, Deputy Chief, Captains, the Internal Affairs Lieutenant, and the Training Coordinator are notified.
 - b. Take receipt of the officer's firearm when safe to do so.
 - c. Ensure that the scene is protected.
 - d. Ensure the officer(s) involved, if uninjured, are safely transported to their residence.

L. Removal from Line of Duty Pending Administrative Review [CFA 15.15]

Whenever an officer is a principal participant in an incident involving the use of deadly force which results in death or great bodily injury, the following procedure should be followed:

1. The officer shall undergo a debriefing with a Department-provided psychologist within 24 hours of the incident. The debriefing shall be for the purpose of allowing the officer to express his/her feelings and deal with the moral, ethical, and psychological effects of the incident and shall not be related to any Departmental investigation of the incident. Discussion during this debriefing shall not be used in violation of the privileged physician/patient relationship.
2. Be placed on administrative leave with pay, upon completion of the incident report and Response to Resistance report, pending an administrative review. This leave shall be for a minimum of three days, during which time the officer shall be available for interviews by Department officers.
3. Remain on administrative leave until authorized to return to duty status by the Chief.
4. Not discuss the incident with anyone except appropriate Departmental personnel assigned to the investigation, the officer's appropriate Union representatives, the State Attorney's Office, the officer's psychologist or Department-provided psychologist, the officer's private attorney, the officer's chosen clergy, and the officer's immediate family.
5. Upon return to duty, the officer may be assigned to "administrative duty" for a period of time deemed as appropriate by the officer, his/her mental health professional, and/or the Chief.

Glossary

Choke Hold – A physical maneuver that restricts an individual's ability to breathe for the purposes of incapacitation.

Deadly Force – Any use of force that creates a substantial risk of causing death or serious bodily injury.

De-Escalation – Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

Duty to Intervene – An attempt to prevent or stop the use of excessive force by another officer when it is objectively reasonable to do so.

Excessive Force – The application of more force than is objectively reasonable in situations where some force is necessary.

Exigent Circumstances – Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

¹**Graham v. Connor, 490 US 386 (1989)** – The reasonableness of a particular use of force must be judged from the perspective of how a reasonable officer on the scene would respond, rather than the 20/20 perspective of hindsight.

Less-Lethal Force – Any force other than deadly force which is neither likely to cause, nor intended to cause, death or serious injury.

Objectively Reasonable – The determination that the necessity for using force and the level of force used is based upon the officer’s evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar conditions.

Serious Bodily Injury – Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

Tennessee v. Garner 105 S. CT. 1694 – Landmark case decided by the United States Supreme Court dealing with the use of deadly force against a fleeing felon. The impact of this case is that officers cannot use deadly force against non-violent felony offenders.

Vascular Neck Restraint – A technique that can be used to incapacitate individuals by restricting the flow of blood to their brain.

Warning Shot – Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

Attachments:

1. Response to Resistance Form
2. Force Guidelines

CAA 12/08/20 Filed: General Order 601

Title: Response to Resistance

Approved: 
Terri S. Brown, Chief

Date: 12/15/2020

FLORIDA STATE UNIVERSITY POLICE DEPARTMENT
Response to Resistance Form

DATE _____ TIME _____ CASE # _____ SQUAD _____

OFFICER'S NAME _____ ID# _____ HT _____ WT _____

(List additional officers on reverse)

SUBJECT'S NAME _____ DOB ___/___/___ SEX ___ HT ___ WT ___ RACE ___

(List additional suspects in narrative)

Subject is injured or complains of injury ()

REASON FOR USE OF FORCE

Necessary to Defend Self Necessary to Defend Another
 Necessary to Effect Arrest Necessary to Restrain for Subject's Own Safety
 Necessary to Prevent Violent Forcible Felony Other

SUSPECT'S ACTIONS (You may check more than one)

- () Psychological Intimidation (Attitude, Stance, Clenched Fist)
- () Verbal Resistance (Loud, Abusive, Profane, Threatening)
- () Passive Physical Resistance (Sat Still, Refused to Move)
- () Active Physical Resistance (Pulling/Pushing away, Bracing/Tensing, Running away, Linked Arms)
- () Aggressive Physical Resistance (Pushing, Punching, Kicking, Charging, balls up fist and approaches officer, grabs any part of officers body)
- () Deadly Force Resistance (Subject makes overt hostile attacking movements with apparent ability to cause death or great bodily harm to the officer or others, includes biting)

OFFICER'S ACTIONS (You may check more than one)

- () Officer Presence (Uniformed ___ Marked Unit ___ Plain Clothes ___ Unmarked Vehicle ___ Raid Jacket/Vest ___ Weapon Displayed to Gain Compliance (O.C, Taser, Baton, Firearm, PepperBall System)
- () Verbal Direction/Commands (Words Used)
- () Physical Control Techniques (Physical Techniques Which Range from Pressure Point Control, Wrist Locks, Takedowns, Sweeps)
- () Nonlethal Weapon (O.C, Expandable Baton, RRB, Taser and *PepperBall System*)
- () Deadly Force (When an Officer Must Shoot or Strike the Subject in a Manner Likely to Cause Death or Great Bodily Harm, to include neck restraint)

POLICE WEAPONS USED

- () Personal Weapons (Hands, Feet, Knees)
- () O.C./ PepperBall System
- () Taser
- () Impact Weapon
- () Other (Weapon of Necessity, ie..Clipboard, Ticket Book)
- () Firearms/Rifle (Ready Position)
- () Firearm/Rifle (Pointed at Suspect)
- () Firearm/ Rifle (Discharged at Subject)

Officers should refer to the "Force Guidelines" and articulate the totality of the circumstances at the time of the incident. Officers need to clearly articulate the specific basis for their decisions regarding the use of force.

FORCE GUIDELINES FLORIDA STATE UNIVERSITY POLICE DEPARTMENT

The "Force Guidelines" provide a framework for making decisions involving the reasonable use of force by criminal justice officers.

Subject Resistance Levels

Passive resistance is a subject's verbal and/or physical refusal to comply with an officer's lawful direction causing the officer to use physical techniques to establish control.

Some examples of passive resistance include the following:

- The subject refuses to move at the officer's direction.
- The subject peacefully protests at a political event in a public location.
- The subject refuses to take his hands out of his pockets or from behind his back.

Active resistance is a subject's use of physically evasive movements directed toward the officer such as bracing, tensing, pushing, or pulling to prevent the officer from establishing control over the subject.

Some examples of active resistance include the following:

- The subject physically anchors himself to a person or object to prevent himself from being removed.
- The subject braces or pulls away from the officer when the officer grips the subject's arm.
- The subject attempts to run when the officer touches or attempts to grab the subject's arm or shoulder.

Aggressive resistance is a subject's attacking movements toward an officer that may cause injury but are not likely to cause death or great bodily harm to the officer or others.

Some examples of aggressive resistance include the following:

- The subject balls up his fist and approaches the officer.
- The subject pushes the officer back as the officer tries to take the subject into custody.
- The subject grabs any part of the officer's body.

Deadly force resistance is 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 great bodily harm to the officer or others.

Some examples of deadly force resistance include the following:

- A subject refuses to drop a knife when ordered by the officer and moves toward the officer.
- A subject shoots or points a gun at an officer or other person.
- A subject tries to run an officer down in a vehicle.

Officer Response Options

Physical Control is achieving compliance or custody through the use of empty-hand or leverage-enhanced techniques, such as pain compliance, transporters, restraint devices, takedowns and striking techniques.

A less-lethal weapon is a weapon that is not fundamentally designed to cause death or great bodily harm. Some examples of less-lethal weapons include but are not limited to; chemical agent sprays, dart firing stun guns such as Taser, Rapid Rotation Baton and expandable batons.

Deadly Force is force that is likely to cause death or great bodily harm. Some examples of deadly force include use of a firearm, eye gouges, empty hand strikes to the throat and impact weapon strikes to the side of the neck.

Objective Reasonableness

Totality of circumstances is a term the court uses to refer to all facts and circumstances known to the officer at the time or reasonably perceived by the officer as the basis for a use of force decision. The courts will look at the totality of circumstances in determining whether the decision was objectively reasonable and, therefore, legally justified. 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 available to the officer.

Some situational factors may include the following:

- The type and severity of the incident or crime at issue
- The subject posing an immediate threat to the officer or others
- Subject's physical resistance to an arrest or other lawful detention
- Subject's mental or psychiatric history, if known to the officer
- Subject's violent history, if known to the officer
- Subject's combative skills
- The subject fleeing from an arrest or other lawful detention
- The size, age, relative strength, skill-level and physical conditioning (including injury or exhaustion) of the subject and the officer
- The officer's level of training and experience
- The number of persons and/or number of officers on the scene
- The duration of the incident, specifically in relation to the physical resistance offered by the subject
- The time available to an officer to make a decision to use response to resistance levels of control/force
- The subject's proximity or access to weapons
- Environmental factors and other exigent circumstances
- The officer's perceptions at the time the decision to use force was made

Force Guidelines The Decision-Making Process

The Force Guidelines recognize that officers make use of force decisions based on the totality of circumstances at the time of the incident. Circumstances are fluid and dynamic. Formulating a valid response requires continual assessment as the situation changes.

