

Tom Bean Police Department

Administrative Directive

Number: 103.002	Effective Date: 01/22/2018
Subject: Response to Resistance	Revision Date: 01/01/2021
Affected Personnel: All Sworn Personnel	Amends/Supersedes: Policy 3.01
Reference:	

I. Policy

This agency recognizes and respects the value and ~~special~~ integrity of ~~each~~ all human life. In vesting police officers with the lawful authority to ~~use force~~ employ action in the face of resistance, while in the process of protecting the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of this agency that police officers shall use only ~~that force~~ the action reasonably necessary to effectively bring an incident under control, while protecting the lives and / or safety of the officer or another.

II. Definitions

~~Physical Action Force~~ – Any bodily impact, restraint, or confinement, or the threat thereof.

~~Bodily Injury~~ – Physical pain, or any impairment of physical condition.

~~Hand-to-Hand Techniques~~ – Any empty handed (open or closed), physical technique(s) strategically employed to gain, re-gain, or maintain control over the movements and actions of another person.

~~Non-Deadly Less-Lethal Action Force~~ – Any ~~action force~~ used other than that which is considered ~~deadly lethal force~~.

~~Lethal Action Force~~ – ~~Force Action~~ which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious bodily injury.

~~Reasonable Belief~~ – A belief that an ordinary, prudent person would form under the circumstances in question and one not recklessly or negligently formed.

~~Resistance~~ - the refusal to accept or comply with something; the attempt to prevent, or thwart something through action or argument.

~~Serious Bodily Injury~~ – Any ~~physical~~ ~~bodily~~ injury that creates a substantial risk of death or that causes protracted ~~physical~~ disfigurement, protracted impairment of health, loss or protracted impairment of the function of any bodily member or organ.

~~Tactics~~ - actions or strategies carefully planned or executed to achieve a specific end.

Techniques - Methods of carrying out specific tasks, especially regarding the execution of action to overcome the resistance of another.

III. Lethal Action ~~Deadly Force~~

A. Justification for the use of ~~lethal action deadly force~~

1. Regardless of the nature of crime or the justification for directing ~~lethal action deadly force~~ at a suspect, officers must remember that their basic responsibility is to protect life. Lethal action Deadly force is an act of last resort and will be used only when other reasonable alternatives are impractical or has failed.
2. Officers may use ~~lethal action deadly force~~ only when the officer reasonably believes that the action is in defense of human life, including their own, or in defense of any person in immediate danger of serious ~~physical bodily~~ injury.
3. Officers may use ~~lethal action deadly force~~ to prevent the escape of a fleeing felon whom the officer has probable cause to reasonably believe will pose a significant, ~~imminent or immediate~~ threat to human life should the escape occur.
4. Justification for ~~action the use of force, lethal deadly~~ or ~~less-lethal non-deadly~~, is limited to what reasonably appears to be the facts known or perceived by the officer at the time ~~he or she~~ they decides to ~~use employ~~ such ~~action force~~. Facts unknown to the officer, no matter how compelling, cannot, ~~and shall not~~ be considered in later determining whether ~~or not~~ the action was justified.

IV. Use of ~~Lethal Deadly Force~~ Weapons

A. Police officers are authorized to use ~~their~~ firearms in order to:

1. Protect the police officers or others from what is reasonably believed to be an immediate threat of death or serious ~~physical bodily~~ injury;
2. Prevent the escape of a fleeing felon whom the officer has reasonable belief will pose a significant, ~~imminent or immediate~~ threat to human life, should escape occur;
3. ~~Practice or train~~ in an area where firing / ~~drawing~~ a weapon is both safe and lawful;
4. Upon the command of a Tom Bean Police Department Firearms Instructor during a legitimate Agency firearms training session or qualification being held in an approved firearms training facility;
5. In order to destroy an animal that is obviously vicious or dangerous and that cannot otherwise be captured or prevented from killing or seriously

injuring the officer or others. Supervisory approval shall be obtained in advance whenever possible;

6. To destroy an animal that is so badly injured that humanity requires its relief from further suffering and other reasonable and viable alternatives do not exist. Supervisory approval shall be obtained in advance whenever possible. If the animal is domesticated or privately-owned livestock, reasonable attempts should be made to contact the owner of the animal, if known, and obtain the owner's consent prior to destroying the animal; or
7. Officers may draw or display firearms when there is a threat or reasonable belief that there is a threat to life, or when they have a reasonable fear for their own safety or the safety of others.

B. Police officers are prohibited from using their firearms under the following circumstances:

1. ~~Except for maintenance or during training, police officers shall not~~ Drawing or exhibiting ~~their firearm~~ unless circumstances create reasonable belief that it may be necessary to use ~~the weapon~~ in conformance with this policy;
2. ~~Officers shall not fire their weapons under~~ When conditions ~~that~~ would unnecessarily subject bystanders or hostages to death or ~~possible serious bodily injury~~ ~~except to preserve life or to prevent serious physical injury~~;
3. At or from a moving vehicle unless it is necessary to prevent imminent death or serious ~~physical bodily~~ injury to the officer or another;
4. ~~To fire~~ warning shots ~~shall not be fired under any circumstances~~; and
5. ~~Officers shall not~~ To fire into a building or through doors unless the suspect can be identified and is clearly visible and the use of ~~lethal deadly force~~ ~~action~~ is authorized by this directive.

V. Use of ~~Physical Force~~ Hand-to-Hand Techniques and ~~Non Less-Lethal Deadly Weapons~~

- A. Where ~~lethal action deadly force~~ is not authorized, officers should assess the incident in order to determine which ~~non-deadly hand-to-hand techniques~~ or ~~non-deadly less-lethal~~ weapon will ~~best be most appropriate~~ to de-escalate the incident and bring it under control in a safe manner.
- B. Officers of this agency are authorized to use agency approved ~~non-deadly hand-to-hand force~~ techniques and approved ~~less-lethal weapons equipment~~ for resolution of incidents, as follows:
 1. To protect themselves or another from ~~bodily injury physical harm~~;

2. To restrain or subdue a resistant individual; or
 3. To bring an unlawful situation safely and effectively under control.
- C. Officers shall only use the type and degree of **action force**, which is reasonable and necessary, based on the circumstances.

VI. **Use of Force Response to Resistance** Guidelines

- A. The following **Use of Force Response** Matrix is meant to be used as a guideline for officers to select effective, reasonable and legal **response force** options in a verbal or physical encounter. As a subject increases the level of resistance from verbal to physical, an officer may have to increase the level of the response until the resistance ceases and the officer is able to gain control of the subject. As soon as **the point of subject** compliance is reached, the officer shall de-escalate the response level to **the** minimum **force action** necessary to **maintain** control of the subject.
- B. In properly determining the appropriate response to a subject's resistance, several factors must be evaluated when making **use of force response** decisions. For instance, an unarmed small-framed, female juvenile subject may be displaying Level 5 resistance, but would probably only require a Level 3 response by the average officer. On the other hand, a single officer faced with a very large professional wrestler or football player may very well find that the response to even mild resistance must be escalated to a relatively high point on the matrix. It must be remembered that by law, an officer need not retreat in the efforts to lawfully **exercise** control of a subject, but may utilize **only** the **response amount of force** necessary to accomplish the task. This is not to say that a tactical retreat in the face of overwhelming odds may not be a wise choice.

C. **Use of Force Response** Matrix

1. LEVEL 1
 - a) Resistance:

- (1) Presence – A subject is there, on the scene, in attendance of suspicious **activity and / or blatant criminal** activity.

b) Response:

- (1) Officer Presence – The officer is on the scene. This includes proper voice and / or other identification, and body language **and intended to produce recognition of**, or awareness by the subject that he or she is **dealing with being engaged by an** police officer.

2. LEVEL 2

a) Resistance:

- (1) Verbal Non-compliance – A subject may verbally refuse to comply with an officer's request or attempts to **assert control over** the situation. The subject may threaten the officer with further resistance, or the subject may **simply** not respond to the officer's **presence**.

b) Response:

- (1) Dialogue – A two way, controlled, non-emotional communication between the officer and subject aimed at problem identification and resolution.
- (2) Verbal Direction – An officer tells or commands a subject to engage in, or refrain from, a specific action.
- (3) Touch – An officer employs an **soft** assisting touch with direction **or a strong, firm touch** prior to **escalating** adjusting to a higher level of **response force**.

3. LEVEL 3

a) Resistance:

- (1) Passive Physical Resistance – A subject **physically** refuses to comply or respond **to verbal commands or instruction**. The subject does not **make any attempt to physically defeat the**

actions of physically attack or take offensive action against the officer, but forces the officer to employ physical action maneuvers in order to establish control over the subject's actions / movement.

b) Response:

- (1) Transporters – Hand-to-hand techniques used to control or move a subject with minimum effort by the officer in order to gain and retain control over the subject.
- (2) Pain Compliance – Hand-to-hand techniques that force compel a subject to comply with an officer as a result of the officer inflicting temporary, controlled pain directed discomfort on specific points on the subject's body, such as pressure points.
- (3) Takedown – Hand-to-hand techniques that redirect, in a controlled manner, a subject to the ground in order to limit his or her physical resistance and to facilitate the application of a restraint device.
- (4) Inflammatory Agent – The use of Oleoresin Capsicum, also known as O.C., may be used to gain compliance and to attempt to avoid elevation to a higher level of response.

4. LEVEL 4

a) Resistance:

- (1) Active Physical Resistance – A subject makes physically evasive movements to defeat an officer's attempt at asserting control. Some examples may include but are not limited to:
 - Pulling, twisting, or shoving away
 - Open hand defense (slapping, shoving, or pulling officers' hands away, etc.)

b) Response:

- (1) Police Baton – Expandable, side handle, or straight baton.
- (2) Conducted Electrical Weapon – Axon Taser X2, or X26
- (3) Directed Strikes – Hand-to-hand techniques employed with the legs, feet and / or closed hands, directed at pressure

points on the subject such as the common perineal nerve mass, etc.

5. LEVEL 5

a) Resistance:

(1) Aggressive Physical Resistance – A subject makes overt, hostile or aggressive, attacking movements, which may cause bodily injury, but are not likely to cause death or serious bodily injury harm to the officer or others. Some examples may include, but are not limited to:

- Grappling (gripping or attempting to seize or restrict movements of the officer)
- Striking (or attempting to strike) the officer with head, hands, legs, feet, knees, or elbows.

b) Response:

(1) Incapacitation – Hand-to-hand techniques employed that are intended to debilitate, stun or render a subject temporarily unconscious, disoriented, or otherwise incapable of presenting continued resistance. May also be delivered with an impact weapon.

6. LEVEL 6

a) Resistance:

(1) Aggravated Physical Resistance – A subject makes overt, hostile, attacking movements with or without a weapon with the intent and apparent ability to cause death or serious bodily injury harm to the officer or others. Some examples may include, but are not limited to:

- Attempting to render the officer unconscious
- Attempting to impair or destroy an officer's vision
- Display, OR attempting to acquire or use a lethal object or weapon

b) Response:

(1) Lethal Action Deadly Force – Techniques that may result in imminent death or serious bodily injury, unconsciousness or permanent disfigurement, such as impact weapon strikes to head or use of a firearm. Lethal Action Deadly force techniques are a last resort.

VII. Authorized ~~Non-Deadly~~ Less-Lethal Weapons

- A. For a list of ~~non-deadly less-lethal~~ weapons authorized by the agency, refer to the Weapons and Ammunition Specifications.
- B. Use of ~~non-deadly less-lethal~~ weapons
 - 1. Oleoresin Capsicum (O.C.) – O.C., an inflammatory agent, may be used in defense against combative, resisting, or otherwise violent individuals. O.C. is not necessarily a replacement or substitute for otherwise less-than-lethal devices or tactics and therefore should only be used when it is determined to be the best available enforcement tool or tactic under given circumstances. Similarly, O.C. is not intended to be an alternative to the use of deadly force when such is clearly authorized and is necessary as described in this Directive.
 - a) O.C. may be used in accordance with the ~~Use of Force~~ response matrix.
 - b) O.C. may also be used to affect the removal of a person from an automobile or from an enclosed area when it becomes apparent that physical ~~force~~ action will be necessary to otherwise accomplish compliance.
 - c) O.C. will only be used as a control and compliance measure against violent and/or resisting individuals and will never be used for retaliation or for any illicit or unlawful purposes.
 - d) Officers will use only the amount of O.C. reasonably needed to achieve the desired enforcement results; officers will discontinue the use of O.C. when it becomes apparent that a suspect may otherwise be taken into custody or whenever the O.C. appears to disable the suspect.
 - e) After control has been established or resistance has ceased, officers will make reasonable efforts to allow the O.C. affected individual relief from the discomfort associated with the applications of O.C. Water and sufficient ventilation will reduce the effects of the O.C.
 - f) Officers will at all times conform to training provided by the Agency in the use of O.C. and will carry and use only the authorized O.C. issued by the Agency.
 - 2. Conducted Electrical Weapon (CEW) – A CEW ~~is an electroshock weapon that fires two small barbed probes intended to puncture the skin~~

and remain attached to the target while delivering modulated electric current. The modulated electric current is designed to disrupt voluntary control of muscles, thusly causing "neuromuscular incapacitation". The CEW may be used in defense against combative, violent, aggressive individuals. A CEW should only be used when it is determined to be the best available ~~enforcement tool or tactic~~ less-lethal option under given circumstances. A CEW is not intended to be an alternative to the use of lethal ~~deadly~~ force when such is clearly authorized and is necessary as described in this Directive.

- a) Prior to issuance of a CEW, or carry of same, all officers shall be issued, and will read "TASER Handheld CEW Warnings, Instructions, and Information: Law Enforcement (10/30/2018)".
- b) Officers will observe / consider all manufacturer safety warnings when deciding whether or not to deploy a CEW.
- c) Officers will only use a CEW for its intended purpose, in legally justifiable situations, and in accordance with this policy.
- d) Officers will keep their finger off the trigger of the CEW until it is legally justifiable to use the CEW and they are ready to deploy.
- e) Officers will discontinue the use of a CEW when it becomes apparent that a suspect may otherwise be safely taken into custody.
- f) Officers will at all times conform to training provided by the Agency in the use of CEWs and will carry and use only the authorized CEWs issued by the Agency.

3. Police Batons – A police baton may be used when the level of force is necessary. The baton permits an officer to defend himself or others in situations where the use of firearms may not be necessary or justified.
 - a) When the use of the baton is warranted, officers will attempt to strike the suspect's arms or legs. Officers should not attempt to strike suspects on the head, neck, sternum, spine, groin or kidneys, unless ~~deadly-force~~ lethal action is justified.
 - b) Jabs to the body with the baton should be used under circumstances that inhibit the officer's ability to strike the suspect in the arms or legs such as crowded or confined spaces ~~areas~~, other officers in the area, etc.

4. Flashlights – In the event it becomes necessary to use a flashlight as a defensive weapon, officers will use it in the same manner as the baton, **or as near to as possible under the circumstances**.
5. Firearms – Striking a person with any firearm is prohibited unless the firearm has already been drawn or displayed in accordance with this directive and the immediate use of physical force is necessary for the defense of an officer or another person under circumstances where the use of **deadly force lethal action** is not justified and the opportunity to secure the firearm is not present.
6. Police Vehicles – Officers will not attempt to deliberately collide with other vehicles or to use police vehicles to force any vehicle off the roadway.

VIII. Training and Qualifications with **Deadly Lethal** and **Less-Lethal Non-Deadly** Weapons

- A. Officers shall receive in-service training for all authorized weapons and the Agency's use of force policies annually. Officers must demonstrate proficiency with each authorized weapon. The weapons training must be monitored by a certified instructor.
 1. All training and proficiency shall be documented.
 2. Officers must receive training regarding the Agency's **response to resistance use-of-force** and weapons policies prior to being authorized to carry a weapon.
- B. Officers shall carry only those weapons, **deadly lethal** or **non-deadly less-lethal**, that are authorized and registered with the agency while on-duty or off-duty.
- C. Authorized weapons, **deadly lethal** or **less-lethal non-deadly**, are those with which the officer has qualified and received agency training on proper and safe usage, and that are registered and comply with agency specifications.
- D. The agency shall schedule regular training and qualification sessions for duty, off-duty, specialized weapons, and **non-deadly less-lethal** weapons, which will be graded on a pass or fail basis.
- E. Officers who fail to receive a passing score with a weapon, **deadly lethal** or **less lethal non-deadly**, in accordance with agency testing procedures shall be allowed two additional qualification courses on the same day of training. The assigned training supervisor will evaluate officers still failing to qualify and a recommendation forwarded to the Chief of Police. Upon receipt of the evaluation, the Chief of Police may suspend the officer's enforcement duties and assign said officer to remedial instruction of up to sixteen hours duration. The failure of the officer to qualify after completion of additional training may result in correction up to and including separation.
- F. An officer shall not be permitted to carry any weapon, **deadly lethal** or **less-lethal non-deadly**, with which he has not been able to qualify during the most recent annual qualification.

- G. An officer that has taken extended leave or suffered an illness or injury that could affect his use of firearms or ~~non-deadly~~ ~~less-lethal~~ weapons ability will be required to qualify before returning to enforcement duties.
- H. This agency does not authorize neck restraints, or similar weaponless control techniques.

IX. Medical Treatment Required

- A. When any force is used, the officer shall attempt to determine if any injuries have occurred as soon as practical.
- B. If a suspect is obviously injured, alleges injury, or requests medical assistance when an officer has used ~~deadly~~ ~~lethal~~ or ~~less-lethal~~ ~~non-deadly~~ force, the officer will immediately notify a supervisor.
- C. In these instances, officers will provide medical treatment for the offender by:
 - 1. Transporting the offender to the nearest medical facility; or,
 - 2. Request an ambulance for transport to the nearest medical facility.

X. Reports and Documentation

- A. Officers shall complete a ~~Use of Force~~ ~~Response to Resistance (R2R)~~ Report and an incident or offense report when:
 - 1. The officer has discharged a firearm for any purpose other than training or recreational use except for the destruction of animals which requires only an incident report;
 - 2. The officer has employed any level of force that results in, or is alleged to have resulted in, injury or death to anyone;
 - 3. The officer has employed force through the use of any weapon;
 - 4. The officer has employed any level of weaponless physical ~~action~~ ~~force~~ other than presence or verbal direction.
- B. These reports shall be submitted to the officer's supervisor prior to the end of the shift unless extenuating circumstances exist. The supervisor shall review the reports and forward them to the ~~Chief of Police~~ ~~division supervisor~~.
- C. Officers shall submit a detailed report when the officer or supervisor believes documentation pertaining to any force employed or not employed by the officer is necessary for the protection of the officer, the agency, or the City of Tom Bean.

XI. Supervisor Notification

- A. The officer using force will immediately summon a supervisor to the scene when force has been used and any of the following conditions exist.
 - 1. When a use of force results in death or serious bodily injury.
 - a) The officer shall contact the Chief of Police when the use of force has resulted in serious bodily injury or death.
 - 2. When a subject complains that an injury has been inflicted.
- B. The Chief of Police will ensure that the primary officer using the force completes an ~~Use-of-Force~~ R2R Report before the officer's duty tour ends.
- C. If the primary officer using force is physically or emotionally unable to complete an ~~Use-of-Force~~ R2R Report, the Chief of Police or designee conducting the internal investigation shall attempt to obtain a verbal report from the officer within 24 hours.

XII. Administrative Review of Uses of Force

- A. All reported ~~uses-of-force~~ responses to resistance will be reviewed by the Chief of Police to determine whether:
 - 1. Agency rules, policies, or procedures were adhered to;
 - 2. The relevant policy was clearly understandable and effective to cover the situation; and
 - 3. Agency training is currently adequate.
- B. All findings of policy violation or training inadequacies shall be resolved by the Chief of Police when necessary or appropriate.
- C. All ~~use-of-force~~ response to resistance incident reports shall be filed and maintained by the Chief of Police for annual review and analysis to ascertain training and policy needs.

XIII. ~~Deadly-Force~~ Lethal Action Investigation and Review

- A. Investigation Requirement
 - 1. If an officer is involved in an incident in which either the officer or another person is injured or killed as a result of police action or the use of ~~deadly~~ lethal force, or if an officer intentionally employs ~~deadly~~ lethal force but no injury or death results, a criminal investigation and an administrative investigation shall be initiated separately.
 - a) The investigations will comply with agency procedures.

- B. Officers who have employed any force which has resulted in serious bodily injury or death to any person will be placed on a moratorium with pay for a minimum of 24 working hours to provide sufficient time for counselling scheduling and to assist with the internal investigation.
1. Officers who have been placed on a moratorium will not engage in off-duty employment during this time, nor are they expected to perform police-related functions except under extreme circumstances. Officers on a moratorium will be available at the direction of the assigned investigator to assist in the investigation of the ~~deadly force~~ lethal force incident.
 2. The Chief of Police will be responsible for ensuring that the officer is placed on a moratorium and that such action is documented.
 3. Officers who have been placed on a moratorium will not be returned to normal duties until completion of mandatory counseling.
 - a) The Chief of Police will be responsible for ensuring that such counseling is scheduled and completed and that appropriate supporting documentation is maintained.
 4. The Chief of Police will authorize the officer to return to normal duties.
 5. Moratoriums may be extended at the discretion of the appropriate authority, as ~~he or she deems~~ is deemed necessary.