

Response to Resistance

300.1 PURPOSE AND SCOPE

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - As defined in 11 Del. C. 471, deadly force means force which an individual uses for the purpose of causing, or which the individual knows to create substantial risk of, death or serious injury..

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

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

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 reasonable officer would use under the same or similar situations, to include such factors as the seriousness of the offense the physical threat towards themselves or others involved, the active resistance offered by the offender or the attempt to evade the arrest by flight.

De-escalation - Taking action or communicating verbally or non-verbally during a potential force encounter 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.

300.2 POLICY

The response to resistance by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

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Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Delaware Natural Resources Police recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

An officer shall use de-escalation techniques and/or other alternatives prior to using higher level of force consistent with his or her training whenever possible and appropriate. Whenever possible and when such delay will not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual reasonable time and opportunity to submit to verbal commands before force is used.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Sworn officers obtain the right to use force, including deadly force, in situations defined by Title 11, 467 of the Delaware Code.

1. Force should be discontinued when resistance ceases or when the incident is under control.
2. Force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer or another person.
3. Choke holds are prohibited unless deadly force is authorized.
4. Reasonable force may be used against an animal to protect the officer or others from immediate physical harm.

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

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Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

1. While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force. Only equipment designed for force situations, which is authorized and issued by the Division, and in which the officer has been trained shall be carried or used by an officer when on scheduled and/or assigned tours of duty.
2. Officers are issued the following items of equipment to assist in making a lawful arrest, or detention, when resistance is encountered, to prevent an escape or for the purpose of protecting oneself or a third party from bodily harm. These items shall be carried or readily accessible, by on-duty officers at all times:
 - (a) Chemical spray (O.C.)
 - (b) CEW (Taser)
 - (c) Expandable Baton
 - (d) Handcuffs
 - (e) Handgun
 - (f) Shotgun (if applicable)
 - (g) Rifle (if applicable)

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

300.3.1 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.

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- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness.
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

300.3.2 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

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

300.3.3 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be

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restricted. Officers are encouraged to use techniques and methods taught by the Delaware Natural Resources Police for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

Officers shall only utilize deadly force when necessary and justified to effect lawful objectives in conformance to the provisions of the Delaware Code. Under Delaware law 11 Del. C. 467 a police officer is allowed to use the amount of force which would be reasonable or objectively reasonable upon another person when the officer is making an arrest and believes such force is immediately necessary to affect the arrest. Use of force to effect an arrest is justified when;

1. An officer makes the purpose of the arrest known or believes it is otherwise known or cannot reasonably be made known to the person arrested; or
2. The arrest is made under a warrant, and the warrant is valid or believed by the officer to be valid; or
3. The arrest is made without a warrant, and the officer believes the arrest to be lawful
4. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury.
5. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the individual has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the individual is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes that the individual has a weapon or is attempting to access one and intends to use it against the officer or another person. An imminent danger may also exist if the individual is capable of causing serious bodily injury or death without a weapon, and the officer believes the individual intends to do so.

No police officer of the Division shall discharge a firearm or use deadly force under the following circumstances:

1. To affect the arrest or prevent the escape of a person who has committed a misdemeanor or a minor violation.
2. At a motor vehicle unless the occupant(s) of the vehicle uses deadly force against the officer or another person.
3. From a moving vehicle.

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300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Firearms shall not be discharged at a moving vehicle or from a moving vehicle unless:

- (a) A person is threatening the officer or another person with deadly force by means other than the vehicle; or
- (b) The vehicle is operated in a manner that would lead a reasonable officer to believe it creates a substantial risk of serious physical injury or death to the officer or another person, and all other reasonable means of defense have been exhausted (or are not present or practical), which include moving out of the path of the vehicle.

300.5 REPORTING THE RESPONSE TO RESISTANCE

A report must be completed anytime an officer:

- (a) Discharges a firearm, other than for routine training, to kill a dangerous animal or an animal in humane consideration to prevent further suffering when other disposition would be impractical.
- (b) Takes any action that result in, or is alleged to have resulted in, any injury to another person; or
- (c) Uses physical forces, or is alleged to have used physical force, to another person.

Any response to resistance by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the response to resistance was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure or law.

1. If the response to resistance incident involves multiple officers, every officer that uses any type of physical force as defined in this policy shall be required to complete a Response to Resistance Report.
2. If the response to resistance incident involves police officers from other agencies the arresting officer or immediate supervisor shall obtain a copy of the report from the officers involved.

Click below to access departmental Response to Resistance report forms:

- **Fish & Wildlife** - [Response to Resistance Report](#)
- State Parks - [Force Report](#)
- Environmental Crimes -

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300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the TASER (TM) or control device.
- (f) Any application of a restraint device other than handcuffs.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

300.6 MEDICAL CONSIDERATIONS

Once the scene is safe and as soon a practical, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any response to resistance incident is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a

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medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 - 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 - 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

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300.7.1 CAPTAIN RESPONSIBILITY

The Captain shall review each response to resistance incident by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

All agency personnel authorized to carry weapons will receive in-service training, at least annually, on the agency's response to resistance policy and use of deadly force.

Subject to available resources, officers should receive periodic training on:

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- (b) De-escalation tactics, including alternatives to force.

300.9 RESPONSE TO RESISTANCE ANALYSIS

At least annually, the Chief of Police or thier designee should prepare an analysis report on response to resistance incidents. The report should be submitted to the Chief of Police if prepared by the designee. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

Attachments

Response to Resistance Report- F-W.pdf



**Delaware Fish & Wildlife
Natural Resources Police**
89 Kings Highway, Dover, DE 19901

Response to Resistance Report

Complaint Number: _____

Arrest Number: _____

Incident Date & Time: _____

Day of Week: _____

Resistance Directed Against

Name: _____

Address: _____

City, State, Zip Code: _____

Gender: Male Female Other Age: _____

Response Type (Check those which apply & explain):

Physical Force _____

Non-Lethal Weapons _____

Taser-Conducted Electric Weapon Used (CEW)

Taser Model: _____

Taser CEW Serial No.: _____

Cartridge Type used: _____

Attach additional sheets if needed.



Delaware Fish & Wildlife
Natural Resources Police
 89 Kings Highway, Dover, DE 19901

Response to Resistance Report

Medical Attention Required:

First Aid Only

Physician: _____

Medical Facility: _____

Admitted Released

Date: _____

Injuries: _____

Damage to State Owned Equipment:

Incident Location: _____

Offense:

Attach additional sheets if needed.



Delaware Fish & Wildlife
Natural Resources Police
 89 Kings Highway, Dover, DE 19901

Response to Resistance Report

Incident Synopsis:

Officer Signature: _____ Date: _____

Officer Title: _____

Reviewer Signature: _____ Date: _____

Reviewer Title: _____

Attach additional sheets if needed.

Force Report-Parks.pdf



Delaware Natural Resources Police



State Parks Enforcement
89 Kings Highway, Dover, DE 19901

Force Report

Complaint Number: _____

Arrest Number: _____

Incident Date & Time: _____

Day of Week: _____

Force Directed Against

Name: _____

Address: _____

City, State, Zip Code: _____

Gender: Male Female Other Age: _____

Force Type (Check those which apply & explain):

Physical Force _____

Non-Lethal Weapons _____

Taser-Conducted Electric Weapon Used (CEW)

Taser Model: _____

Taser CEW Serial No.: _____

Cartridge Type used: _____

Attach additional sheets if needed.



Delaware Natural Resources Police



State Parks Enforcement
89 Kings Highway, Dover, DE 19901

Force Report

Medical Attention Required:

First Aid Only

Physician: _____

Medical Facility: _____

Admitted Released

Date: _____

Injuries: _____

Damage to State Owned Equipment:

Incident Location: _____

Offense:

Attach additional sheets if needed.



Delaware Natural Resources Police
State Parks Enforcement
89 Kings Highway, Dover, DE 19901



Force Report

Incident Synopsis:

Officer Signature: _____ Date: _____

Officer Title: _____

Reviewer Signature: _____ Date: _____

Reviewer Title: _____

Attach additional sheets if needed.