

**TEXARKANA, TEXAS POLICE DEPARTMENT
GENERAL ORDERS MANUAL**

<i>Effective Date</i> February 1, 2008		<i>Amended Date</i> February 14, 2017		<i>Directive</i> 6.01.1	
<i>Subject</i> Authorization to Respond to Resistance or Aggression					
<i>Reference</i>					
<i>Distribution</i> All Personnel City Manager City Attorney		<i>TPCA Best Practices Recognition Program Reference</i> 6.01.1 Authorization to Use Response to resistance or aggression		<i>Review Date</i> September 19, 2019	
				<i>Pages</i> 8	

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

SECTION 1 PURPOSE

The purpose of this policy is to regulate the response to resistance or aggression according to all relevant state and federal statutes and in keeping with the highest standards of the police profession. The policy is also intended to establish the doctrine of a "reasonable officer" as the benchmark for the level of response to resistance or aggression used.

SECTION 2 POLICY

It is the policy of this Department that officers shall use only that response to resistance or aggression which is reasonable and necessary to achieve a lawful law enforcement objective. It is the policy of this Department that all responses to resistance or aggression will be appropriately documented in accordance with the procedures set forth in this policy. It is also the policy of this Department that all responses to resistance or aggression will be carried out with due regard for the safety of our citizenry and the safety of police employees who are engaged in a challenging and dangerous occupation.

SECTION 3 PROCEDURES

A. RESPONSE TO RESISTANCE OR AGGRESSION

Although the response to resistance or aggression is permitted by law and Department policy, an unnecessary or unreasonable response to resistance or aggression will not be tolerated. An officer may use appropriate force to overcome resistance or aggression in the lawful performance of his/her duties, even though there is no immediate or apparent danger requiring self-defense. The officer must be acting within his/her authority. The officer shall identify himself as a police officer and state his purpose to the offender and to others immediately present, unless he reasonably believes his purpose and identity are already known or cannot reasonably be made known. Every reasonable opportunity to comply with the officer's request must be given to the person being arrested. When a response to resistance or aggression is warranted, the degree of response to resistance or aggression should follow the continuum from the least amount of force to the most severe degree of force. An elevated response to resistance or aggression may be employed immediately if an officer(s) perceives that a greater degree of force is immediately necessary.

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B. REASONABLE RESPONSE TO RESISTANCE OR AGGRESSION

Officers engaged in the performance of their duties are authorized to respond to resistance or aggression when:

1. It is necessary to preserve the peace, prevent the commission of an offense, or prevent suicide or self inflicted injury.
2. Overcoming resistance to lawful arrests, searches, and transports.
3. Preventing escape from custody.
4. In self-defense, or in defense of another.
5. Preventing an intrusion of, or interference with, the lawful possession of property.

C. DEGREE OF RESPONSE TO RESISTANCE OR AGGRESSION

The degree of response to resistance or aggression which may be employed is based on a standard of reasonableness and determined by the circumstances, including but not limited to:

1. The nature of the offense
2. The behavior of the subject who is resisting or being aggressive
3. Actions by third parties who are present
4. Physical conditions of suspect and officer
5. The feasibility or availability of alternative action
6. The presence or availability of a weapon
7. Other factors which might dictate the reasonable use of a particular level of response to resistance or aggression

D. LESS LETHAL RESPONSE TO RESISTANCE OR AGGRESSION

1. It is imperative that officers be aware that less lethal weapons are not substitutes for a lethal response to resistance or aggression and that any response to resistance or aggression may not be 100% effective. In any case where an officer is confronted with a subject whom the officer reasonably believes poses an immediate threat of death or serious physical harm to the officer or another, the officer should not consider using less lethal weapon options unless the officer is backed up by officers covering with lethal force options.
2. Less lethal responses to resistance or aggression encompass all types of force other than deadly force. Less lethal response to resistance or aggression may be used against another person for the purpose of affecting the arrest, search or detention of another; the recapture of another; for maintaining custody of another; in self-defense or the defense of others; and when necessary to prevent another from committing suicide or inflicting serious bodily injury to himself or herself. The amount and type of less-lethal force must be the minimum amount which is reasonable in

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light of the existing circumstances. The amount of force used will be that which is essential for the officer to accomplish the objective. Less lethal force allows the officer options in resolving high-risk situations using the lowest level of response to resistance or aggression possible. Although it is not intended, the use of less-lethal force could result in serious injury or death under certain circumstances.

E. RESPONSE TO RESISTANCE OR AGGRESSION CONTINUUM

Officers shall employ only that response to resistance or aggression which is reasonable and necessary to achieve a lawful law objective. Generally the response to resistance or aggression continuum is as follows:

1. Command presence and verbalization
2. Soft hands / empty hands control / routine application of handcuffs with no resistance from the arrestee
3. Approved chemical agents
4. Hard hands control/physical strength and skill
5. ASP baton / Less Lethal Impact Projectile Munitions
6. Deadly force

F. LEVELS OF RESPONSE TO RESISTANCE OR AGGRESSION

1. COMMAND PRESENCE AND VERBALIZATION

In most instances, the presence of an officer and verbalization of his instructions is enough to control a situation and persuade those involved to comply.

2. SOFT HANDS/EMPTY HANDS CONTROL

Soft hands control includes physical contact with little or no chance of producing injury such as guiding a suspect to a particular location or position, placing handcuffs on a suspect, gripping, holding, or otherwise controlling a suspect's movements without striking or exerting physical strength to control a suspect.

3. APPROVED CHEMICAL AGENTS

- a. Chemical weapons are considered intermediate weapons, and proper training is required prior to the issuance or use of a chemical weapon. They are designed to result in temporary dysfunction without causing serious physical injury. Some practical uses of chemical weapons are to repel human and animal attacks, temporarily incapacitate violently resisting subjects, compel barricaded subjects to leave an enclosure; and disperse violent crowds or riots.
- b. Generally officers will not use chemical weapons on subjects who are under physical restraint, unless the subject is still violently resisting and lesser means of controlling the

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subject has failed. As in every response to resistance or aggression, each incident will be reviewed on a case by case basis to determine the reasonableness of the officer's actions.

- c. To facilitate the arrest and control of resisting or violent subjects, officers have been issued Oleoresin Capsicum (OC) aerosol restraint spray and/or the JPX 450 Concentrated Chemical Agent Delivery System. Both have been approved by the Chief of Police and are considered less lethal response to resistance or aggression. They provide the officer with an acceptable alternative to hand-to-hand combat, striking, or tests of physical strength thereby reducing the possibility of serious injury to either a suspect or an officer.
- d. All officers whose regular duty assignment necessitates making arrests shall be required to complete the prescribed course of instruction on the use of OC spray and will carry OC spray while on duty. Uniformed Officers shall wear only the Department issued canister and leather holder on the duty belt. Non uniformed officers may carry the Department issued canister in an alternative manner after receiving the proper training.
- e. Only those officers who have completed the prescribed course of instruction on the use and deployment of the JPX 450 are authorized to carry it while on duty. To eliminate any confusion between the JPX 450 and the officer's firearm, it shall be orange in color and worn in the Department issued holster on the side opposite of the officer's firearm.
- f. Whenever practical and reasonable, officers should issue a verbal warning prior to using a chemical agent against a subject. Use of chemical agents should be avoided, if possible, under conditions where it may affect innocent bystanders. Chemical agents may be used when verbal dialogue has failed to bring about the subjects compliance, and the subject has signaled his intention to actively resist the officer's efforts to make the arrest.
 - 1. When using OC spray, officers should maintain a safe distance of between two and ten feet from the subject if possible. Whenever possible, officers should be upwind from the subject before using OC spray and should avoid entering the spray area. Officers must be alert to wind direction and location of other officers to avoid incapacitating them. A single spray burst of between one and three seconds should be directed at the subject's eyes, nose and mouth. Additional bursts may be used if the initial burst proves ineffective. Once a subject is incapacitated or restrained, use of OC spray is no longer justified.
 - 2. The JPX 450 launches high grade OC solution at 405 miles per hour and has an effective range of up to 23 feet. It emits only a minimum of airborne aerosols that cause undesired cross-contamination, making it suitable for indoor use. When using the JPX 450, officers should maintain a safe distance from the subject. The JPX 450 should be shot directly at the subject's face if beyond the required safety distance of five (5) feet, measured between the nozzle of the JPX 450 and the subject's face. If within that distance, shoot the subject in the upper chest area with the JPX 450. If necessary, retreat beyond the required safety distance and shoot the second shot on the subject's face.
- g. Subjects who have been exposed to a chemical agent may display some or all of the following effects: twitching or involuntary closure of the eyes, respiratory inflammation resulting in coughing, shortness of or gasping for breath, skin inflammation, redness and/or a burning sensation on exposed skin, nausea, and gagging.

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- h. Officers should be alert for signs of asphyxiation or other indicators that the chemical agent may be creating unanticipated physiological stresses - especially with heavily intoxicated or obese subjects. Officers should be prepared to administer emergency first aid procedures until medical help can arrive. Officers shall be aware of the life threatening hazards of positional asphyxiation and will not allow subjects who have been exposed to a chemical agent to lay face down. All subjects will be transported in the proper sitting position with the proper restraining equipment in use. Subjects who have been exposed to a chemical agent shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody. Officers should provide assurance to subjects who have been exposed that the effects are temporary and encourage them to relax.
- i. The effects of chemical agents vary among individuals. Therefore, all subjects shall be handcuffed as soon as possible. Officers should also be prepared to employ other means to control the subject to include, if necessary, other responses to resistance or aggression options consistent with Department policy if the subject does not respond sufficiently to the chemical agent and cannot be otherwise subdued.
- j. Assistance shall be offered to any individual who feels the effect of the chemical agent. Decontamination of a person exposed to a chemical agent is accomplished by flushing the subject's eyes, face and affected skin with cool running water.
- k. OC spray canisters shall be maintained in an operational and charged state by the Quartermaster. Each officer is responsible for notifying the Quartermaster of the need for replacement of a damaged, inoperable, or empty canister. OC spray canisters shall typically be replaced when the unit is less than half full.
- l. Any use of pepper spray requires the officer to complete a Response to Resistance or Aggression Report.

4. HARD HANDS CONTROL

- a. Hard hands control consists of striking or other means of physical strength and skill. Examples include striking with the fists, knees, or elbows, tackling, arm bars, or other methods of exerting physical force to overpower and subdue a suspect.
- b. Any hard hands control requires the officer to complete a Response to Resistance or Aggression Report.

5. IMPACT WEAPONS (ASP BATON)

- a. The impact weapon is not designed to be used as a club or bludgeon and should not ordinarily be raised above the head to strike a blow to a person unless lethal force is justified. Blows with an impact weapon should be delivered only to specific areas of the body (target areas). Striking these areas is intended to temporarily incapacitate the suspect, but not intended to cause undue injury or death. No impact weapon or other object will be thrown at anyone unless the possible injury inflicted by use of such would be authorized by departmental policy. Strikes with an impact weapon must be used prudently and only if lesser methods have failed or their use would be impractical.
- b. Any use of an impact weapon requires the officer to complete a Response to Resistance or Aggression Report.

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6. IMPACT PROJECTILE MUNITIONS

- a. Impact munitions are extended range impact weapons designed to temporarily incapacitate non-compliant suspects who are armed with weapons other than firearms or who are exhibiting violent or aggressive behavior. Impact munitions may be used to:
 - 1. Incapacitate an armed subject who is threatening harm to others;
 - 2. Incapacitate an armed suicidal subject;
 - 3. Effect the arrest of an unarmed non-compliant subject whose behavior is such that it poses a serious danger to the public or arresting/restraining officers; or
 - 4. For riot control, officers may not fire impact munitions indiscriminately into a crowd, but may use area target munitions to clear specific areas or disperse crowds.
- b. Impact munitions should never be used against a subject armed with a firearm, or when the subject is an immediate threat to the officer or the public. The use of impact munitions is restricted to open or public areas. Officers should remember that the use of impact munitions creates a risk of death or serious injury. Only personnel trained in the use of impact munitions may employ them in circumstances where the application of the impact munitions is reasonable and necessary.
- c. Any time an officer strikes a subject with impact munitions, the officer will, as quickly as possible, obtain medical treatment for the subject. Before booking, officers will advise jail personnel when an arrested subject has been struck with impact munitions.
- d. Any use of impact munitions requires the officer to complete a Response to Resistance or Aggression Report.

7. DEADLY FORCE AS A RESPONSE TO RESISTANCE OR AGGRESSION

Deadly force is a response to resistance or aggression that is intended to cause, is known by the subject to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury. The decision to use deadly force rests with each officer. Officers are authorized by Department policy to use deadly force in self-defense, or in defense of a third party, when it reasonably appears that there is imminent danger of serious bodily injury or death. The deadly force policy is outlined in Directive 6.02.1

G. OTHER RESPONSE TO RESISTANCE OR AGGRESSION CONSIDERATIONS

1. USE OF HANDCUFFS

- a. As a general rule, all prisoners should be handcuffed. There will, of course, be exceptions to this rule (dependent children, females with small children, pregnant women, physical impairments, etc.) However, officers must keep in mind that all prisoners are potentially dangerous. The officer should first consider his own safety and the safety of others. The officer should also consider any unusual circumstances involved.
- b. Officers are reminded that the use of handcuffs constitutes force. In all cases where handcuffs are used, the officer will double lock the handcuffs to prevent the handcuffs from

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tightening and causing injury to the prisoner's wrists. Officers will not handcuff prisoners to a fixed object except for the safety of the officers or for the safety of the public.

2. STINGER SPIKE SYSTEM OR STOP STICK

The Stinger Spike System is a tire deflation device that assists officers in the safe, early resolution of vehicle pursuits. A primary aim of resolving vehicle pursuits is the prevention of property damage, and most importantly, prevention of injury to officers and innocent bystanders. Before deploying the Stinger Spike System, the officer should consider the following when choosing deployment locations:

- a. The location should enable the officer deploying the system to safely observe the suspect vehicle and other traffic as it approaches.
- b. Traffic conditions must be suitable for safe deployment. Remember, traffic conditions vary depending on the time of day.
- c. Natural barriers such as overpass pillars, guardrails, shrubbery, trees and bridge abutments offer some degree of protection and concealment.
- d. Officers should avoid deployment in populated areas, areas with road construction, areas with steep embankments, curves or hills that hinder the officer's line of sight with traffic and the suspect vehicle.
- e. Officers will not deploy the Stinger Spike System on two wheel vehicles due to the increased risk of injury or death unless the use of deadly force would be legally justified. Communication between the pursuing vehicle, deploying officer and other involved personnel is essential in achieving a safe, successful end to a pursuit. The deploying officer should:
 1. Identify and establish communication with the Lead Pursuit Unit.
 2. Identify the number of vehicles involved, location, direction and speed of the pursuit.
 3. Identify the suspect vehicle description, weapon involvement, and other risk factors such as DWI, lack of headlights, etc.
 4. Identify the suspect's lane of travel.
 5. Identify any other law enforcement agencies involved in the pursuit.
 6. When notified that the Stinger Spike System will be deployed, the pursuing officers shall decrease unit speed for safety, and anticipate unpredictable behavior after the perpetrator's vehicle has been spiked. Cautiously proceed through the deployment area.
 7. The Stinger Spike System should only be deployed by personnel that have been trained and authorized for its use.

H. WARNING SHOTS

As stated in 6.05.1, firearms shall not be discharged as a warning.

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I. DISCHARGE OF FIREARM- NO PHYSICAL INJURY

If an officer discharges his firearm intentionally or unintentionally while on duty or off duty, except for appropriate training or practice, and no one is injured as a result of the shooting, the officer shall immediately notify an on duty supervisor and shall submit a detailed written Response to Resistance or Aggression Report Form as prescribed in section 1.06.02 (L) of this policy as soon as practicable. The report shall be detailed and will describe the circumstances surrounding the incident and a description of any damage to property. The report shall be forwarded to the Chief of Police through the chain of command.

J. DISCHARGE OF FIREARM- PHYSICAL INJURY OR DEATH

If an officer discharges his firearm and causes injury or death, the officer's Division Commander and the Chief of Police will be notified immediately. The Division Commander or their designee shall direct the involved officer's supervisor to immediately accompany the officer to an authorized medical facility for drug testing. The officer's supervisor shall submit a detailed written Response to Resistance or Aggression Report Form as prescribed in section 1.06.02 (L) of this policy, including information related to the date, time, and location of the required testing.

K. NON-DEADLY RESPONSE TO RESISTANCE OR AGGRESSION-INJURY OR DEATH

When an officer's use of non-deadly force results in injury or death, the officer's supervisor and Division Commander shall be notified immediately. The Division Commander shall notify the Chief of Police if death has occurred. The officer's supervisor shall submit a detailed written Response to Resistance or Aggression Report Form as prescribed in section 1.06.02 (L) of this policy.

L. RESPONSIBILITY

1. All members of the Department shall know and comply with all aspects of this directive.
2. All Division Commanders and supervisory personnel are responsible for ensuring compliance with the provisions and intent of this directive.