

	TYPE OF DIRECTIVE GENERAL ORDER	NUMBER G-71-21 REV.
	SUBJECT RESPONSE TO RESISTANCE	EFFECTIVE DATE 10/29/21
	REFERENCE 300 Code of Conduct, G-28, G-36, LP-08A, LP-08B, RP-44, RP-49, CALEA; Va. Code §19.2-83.3 et seq.	RESCINDS G-71-21

PURPOSE

To ensure each sworn member's understanding of and compliance with the Division's provisions for response to resistance in accomplishing its enforcement objectives.

POLICY

It is the policy of the Henrico County Police Division that officers value the sanctity of human life, dignity, and liberty of all persons. Officers should use only the force that is objectively reasonable in light of the totality of the circumstances to effectively bring an incident under control, while protecting the safety of the officer and others. Officers should use force only when no reasonably effective alternative appears to exist and should use only the level of force which a reasonable officer would use under the same circumstances.

The appropriateness of law-enforcement actions directly reflects the standing of the agency within its own community. An officer’s response to resistance should be objectively reasonable and he or she should consider the totality of the facts and circumstances of each incident, to include the severity of the crime, whether the suspect is posing an immediate threat or danger to himself or others, and whether the suspect is resisting arrest or attempting to evade arrest by flight.

All newly employed police officers will, during their first week of employment and prior to being authorized to carry a firearm, receive a copy of this directive and parallel training from the Academy Staff.

DEFINITIONS

Active Resistance – Physically evasive movements directed towards the officer to prevent him from establishing control; actions such as pushing, pulling, evasive arm movement, flailing, flight, muscle tension, utilization of arrest inhibiting devices, etc. to avoid control. Does not include attempts to harm officers.

Assaultive Resistance – Attacking movements towards an officer that may cause injury, but unlikely to cause death or serious bodily injury; agitated, combative state, physically assaultive actions or behavior that poses threat of injury to another, such as, but not limited to, punching, kicking, biting, etc. The longer the encounter the lasts, the higher the chance of injury to either the suspect and/or officer.

Deadly Force – Any force that is likely or intended to cause serious bodily injury or death.

Deadly Weapon – Any object, other than a body part or stationary object, that in the manner of its actual, attempted, or threatened use is likely to cause serious bodily injury or death.

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.

Excessive Force – Any force that is objectively unreasonable given the totality of the circumstances, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

Fleeing Felon – A felon who attempts to evade apprehension and poses a life-endangering threat by his overt actions toward the pursuing police officer(s) or the general public.

Kinetic Impact Munitions – Includes impact rounds and baton rounds, such as rubber batons, bean bag rounds, foam baton rounds, and plastic, wax, wood, or rubber-coated projectiles.

Neck Restraint – The use of any body part or object to attempt to control or disable a person by applying pressure against the neck, including the trachea or carotid artery, with the purpose, intent, or effect of controlling or restricting the person's movement or restricting the person's blood flow or breathing, including chokeholds, carotid restraints, and lateral vascular neck restraints.

Less-lethal Force – Any use of force other than that which is considered deadly force that involves physical effort to control, restrain, or overcome the resistance of another.

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.

Passive Resistance – Verbal or physical refusal to comply with an officer's lawful direction; stagnate body weight or non-compliance to an officer's verbal directions but offering no actively resistive movement.

Serious Physical Injury – Includes serious permanent disfigurement or long-term loss or impairment of the function of a body member or organ.

PROCEDURES

I. GENERAL PROVISIONS

- A. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- B. Physical 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. In these situations, only the minimal amount of force necessary to control the situation shall be used.
- C. Once the scene is safe and as soon as practical, sworn members shall render aid, as circumstances reasonably permit, to any injured persons.

II. DE-ESCALATION

- A. To reduce the need for force, sworn members should use de-escalation and lower levels of

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force consistent with their training when reasonable and appropriate before resorting to higher levels of force.

- B. When reasonable and when such delay will not compromise the safety of the officer or others and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, sworn members should allow an individual time and opportunity to submit to verbal commands before force is used.

III. LESS-LETHAL FORCE

When de-escalation techniques are not effective or appropriate, an officer may consider the use of less-lethal force to control a non-compliant or actively resistant individual. An officer may use Division-approved, less-lethal force techniques and issued equipment to:

- A. Protect the officer or others from immediate physical harm;
- B. Restrain or subdue an individual who is actively resisting or evading arrest; or,
- C. Bring an unlawful situation safely and effectively under control.

IV. DEADLY FORCE

- A. Deadly force shall not be used unless:
 - 1. An officer reasonably believes that he is in imminent danger of death or serious, physical injury or the officer reasonably believes that another person, other than the subject of the use of deadly force, is in imminent danger of death or serious physical injury;
 - 2. If feasible, the officer has provided a warning to the subject of the deadly force that he will use deadly force;
 - 3. The officer's actions are reasonable, given the totality of the circumstances; and,
 - 4. All other options have been exhausted or do not reasonably lend themselves to the circumstances.
- B. In determining whether the use of deadly force was proper, the Division will consider:
 - 1. The reasonableness of the officer's belief and actions from the perspective of a reasonable officer on the scene at the time of the incident; and,
 - 2. The totality of the circumstances, which includes:
 - a) the amount of time available for the officer to make a decision;
 - b) whether the subject of the use of deadly force possessed or appeared to possess a deadly weapon and refused to comply with the officer's lawful order to surrender an object believed to be a deadly weapon prior to the officer using deadly force;

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- c) whether the officer engaged in de-escalation measures prior to the use of deadly force, including taking cover, waiting for backup, trying to calm the subject prior to the use of force, or using non-deadly force prior to the use of deadly force;
 - d) whether any conduct by the officer prior to the use of deadly force intentionally increased the risk of a confrontation resulting in deadly force being used; and,
 - e) the seriousness of the suspected crime.
- C. With regard to a fleeing felon, deadly force may be used only when the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, and the use of such force is necessary to prevent escape.

Mere commission of a crime against property without the existence of the aforementioned elements is not sufficient grounds for the use of deadly force.

V. PROHIBITED PRACTICES

- A. The use of a neck restraint by an officer is prohibited unless the use of a neck restraint is immediately necessary to protect the officer or another person from death or serious bodily injury.
- B. The willful discharge of a firearm by an officer into or at a moving vehicle is prohibited unless the discharge of a firearm is immediately necessary to protect the officer or another person from death or serious bodily injury.
- C. The use of kinetic impact munitions by an officer is prohibited unless the use of kinetic impact munitions is necessary to protect the officer or another person from serious bodily injury.

VI. DUTY TO INTERVENE

- A. Any sworn member who, while in the performance of his or her official duties, witnesses another law-enforcement officer (regardless of agency) engaging or attempting to engage in the use of excessive force against another person shall intervene, when such intervention is feasible, to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force.
- B. Any sworn member who intervenes or witnesses another law-enforcement officer engaging or attempting to engage in the use of excessive force against another person shall report their intervention or their observation of the use, or attempted use, of excessive force to a Division supervisor, who shall handle it in accordance with G-36 Internal Affairs.

VII. REPORTING AND DOCUMENTATION

Whenever a sworn member takes an action that results in or is alleged to have resulted in injury or death of another person and/or whenever he applies force with or without the use of lethal or less-lethal weapons, the officer shall submit a written report. Since there are many different actions taken by an officer that could result in death or injury to another, including traffic crashes, the type of written report to be submitted and any subsequent review will differ; therefore, reporting and review

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procedures shall be explained in those directives that pertain to specific incidents of injury or death with officer involvement, and to actions with lethal and less-lethal weapons.

The type and degree of resistance encountered by an officer will determine the level and type of reactionary physical force needed by the officer to obtain their lawful objective. Whenever an officer uses physical force to respond to assaultive resistance, active resistance, or escalates their response to passive resistance, an HCPD-340 shall be completed.

VIII. TRAINING

- A. All officers will receive training, at least annually, on response to resistance policy and related legal updates.
- B. Additional training will be provided on a regular basis, designed to:
 - 1. Provide techniques for the use of and reinforce the importance of de-escalation;
 - 2. Simulate actual shooting situations and conditions; and,
 - 3. Enhance officers' discretion and judgment in using less-lethal and deadly force in accordance with this policy.
- C. All response to resistance training will be documented.

IX. MISCELLANEOUS

- A. The Use of Force Review Board (UFRB) will conduct a review of all Response to Resistance matters documented on an HCPD-340 within the scope of RP-49 Use of Force Review Board.
- B. Removal from Duty
 - 1. Whenever a death or serious physical injury occurs as a result of the application of force by a member of the Division, the officer will be removed from his line assignment in order to protect the interests of the individuals involved, while an investigation is conducted.
 - 2. If a non-fatal injury occurs, removal from line duty may be imposed by the Chief of Police at his sole discretion or based upon the recommendation of the investigating officers or a staff officer with knowledge of the matter.
 - 3. Removal from a line assignment may be in favor of an administrative assignment at the discretion of the Chief of Police.
- C. Investigation
 - 1. All allegations of violations of this policy will be investigated by Internal Affairs.
 - 2. In addition, any use of force resulting in death or serious physical injury will be investigated by the Officer Involved Investigation Team in accordance with RP-44.

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- D. The Commanding Officer, Professional Standards will annually conduct an analysis of incidents involving response to resistance and related policies and reporting procedures.

CONCLUSION

The importance of this directive cannot be overstated. Every sworn Division supervisor must ensure that all sworn members under their command are fully aware of this directive's content.

By Order of:

Eric D. English
Chief of Police