



MEMORANDUM

Austin Police Department
Office of the Chief

TO: Mayor and Council Members
FROM: Brian Manley, Chief of Police
DATE: July 8, 2020
SUBJECT: Use of Force and De-escalation Policies

The purpose of this memorandum is to provide information on the Austin Police Department (APD) policies relevant to the “8 Can’t Wait” initiative¹ and other demands for police reform in the wake of the appalling murder of George Floyd and the killings of other unarmed people of color by the police, including here in Austin. APD is also working diligently to implement the mandates outlined in Council Resolution 20200611-095, many of which dovetail with ongoing transformational efforts at the Department. I look forward to working with the Council, Office of Police Oversight, and members of the community to achieve further progress.

1: Ban Chokeholds and Strangleholds

Allowing officers to choke or strangle civilians results in the unnecessary death or serious injury of civilians. Both chokeholds and all other neck restraints must be banned in all cases.

Chokeholds and strangleholds are not a part of the APD training curriculum and are not approved tactics for restraining or arresting an individual. Officers are taught to recognize when and how to defeat a chokehold or stranglehold that is used against them, and the appropriate response to resistance could include the possibility of having to use deadly force.

APD neither teaches nor allows the use of the Vascular Neck Restraint or Carotid Neck Restraint. Furthermore, the Department’s policy manual was updated on June 11, 2020, to explicitly ban the use of such techniques. APD policy now states:

Vascular Neck Restraints, Carotid Neck Restraints, and strangleholds are prohibited in all cases except where deadly force would be authorized. Unless engaged in a lethal force encounter, officers will not:

1. Apply direct or indirect pressure by any means to an individual’s throat, windpipe, or airway in a manner that is reasonably likely to prevent, reduce, or hinder the intake of air (e.g. apply a chokehold); or

¹ <https://8cantwait.org/>

2. Apply direct or indirect pressure to an individual's neck in a manner that is reasonably likely or intended to prevent, reduce, or hinder the blood flow within the carotid arteries.

2: Require De-Escalation

Require officers to de-escalate situations, where possible, by communicating with subjects, maintaining distance, and otherwise eliminating the need to use force.

De-escalation was codified into APD policy in June of 2017 with the inclusion of the definitions of "De-escalation" and "De-escalation Techniques":

- **De-escalation** - Using techniques to stabilize the situation and reduce the immediacy of the threat, so that more options and resources are available to bring about a successful resolution to an encounter with a non-compliant subject. The goal of de-escalation is to gain the voluntary compliance of subjects, when feasible, thereby eliminating the need to use force in response to resistance.
- **De-escalation Techniques** - Communicative or other actions used by officers, when safe, and without compromising law-enforcement priorities, that are designed to increase the likelihood of gaining voluntary compliance from a non-compliant subject, and reduce the likelihood of using force in response to resistance.

In December of 2017, the section on de-escalation was moved to a position of prominence at the beginning of the Department's use of force policy, which emphasized that officers **SHALL** use de-escalation techniques to increase the likelihood of voluntary compliance and reduce the likelihood that force would be used against an individual.

To impart the value of de-escalation on new recruits, the APD Training Academy provides cadets with classes on Tactical Communications and De-escalation. The training focuses on using patience and skillful communication to defuse difficult situations and connect with individuals experiencing severe emotional distress or other issues.

3: Require Warning Before Shooting

Require officers to give a verbal warning in all situations before using deadly force.

APD policy mandates that officers provide warnings—when reasonable under the circumstances—prior to discharging a firearm, kinetic energy projectile, or TASER device.

Firearm: Where feasible, a warning should be given before an officer resorts to deadly force...A specific warning that deadly force will be used is not required by this order; only that a warning be given if feasible. (General Order 202.1.1)

Kinetic Energy Projectile: A verbal announcement of the intended use of the kinetic energy projectile should precede its application unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. (General Order 206.5.2)

TASER: A verbal announcement of the intended use of the TASER Device should precede its application unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. (General Order 208.3)

4: Exhaust All Alternatives Before Shooting

Require officers to exhaust all other alternatives, including non-force and less lethal force options, prior to resorting to deadly force.

The Department's use of force philosophy and de-escalation policies instruct officers that when force is necessary, they are to use the lowest level possible to control the situation. The relevant portions of the use of force policy are excerpted below:

This order recognizes that the use of force in response to resistance by law enforcement requires constant evaluation and that response to resistance is a serious responsibility. The purpose of this order is to provide officers with guidelines on objectively reasonable response to resistance. While there is no way to specify the exact amount or type of objectively reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial, and objectively reasonable manner. *(General Order 200.1)*

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use lawful and objectively reasonable force and to protect the public welfare requires a careful balancing of all human interests. *(General Order 200.1.1)*

When safe and reasonable under the totality of circumstances, officers shall use de-escalation techniques to reduce the likelihood for force and increase the likelihood of voluntary compliance...Understanding that no policy can realistically predict every situation an officer might encounter, the Department recognizes that each officer must be entrusted with well-reasoned discretion in determining the reasonable de-escalation techniques to use in a situation. *(General Order 200.2)*

While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this order. *(General Order 200.3)*

Use of De-escalation Techniques – Employing de-escalation techniques may involve securing additional resources, tactical repositioning, and employing verbal persuasion:

- Securing Additional Resources – Officers may utilize additional resources which are reasonably calculated to lessen or possibly eliminate the need to respond to resistance in a situation. To the extent possible and reasonable, in light of the totality of the circumstances, officers should avoid physical confrontation until such time as additional resources have arrived to assist.
- Tactical Repositioning – To delay or avoid physical confrontation, officers may wish to employ...tactical repositioning measures, to the extent possible and reasonable in light of the totality of circumstances.
- Verbal Persuasion – To the extent possible and reasonable under the totality of the circumstances, officers may use one or more...verbal techniques to try to calm an agitated subject and promote rational decisions. *(General Order 200.2.1)*

5: Duty to Intervene

Require officers to intervene and stop excessive force used by other officers and report these incidents immediately to a supervisor.

APD policy contains an explicitly articulated “duty to intercede” provision. General Order 200.1.3 states the following:

Any officer who observes another officer using force shall intercede to prevent further harm if the officer knows that the force being used is not objectively reasonable and the officer has a reasonable opportunity to prevent the harm. Such officers must also promptly report these observations to a supervisor.

6: Ban Shooting at Moving Vehicles

Ban officers from shooting at moving vehicles in all cases, which is regarded as a particularly dangerous and ineffective tactic. While some departments say they restrict shooting at vehicles to particular situations, these loopholes allow for police to continue killing in situations that are all too common. 62 people were killed by police last year in these situations. This must be categorically banned.

APD policy restricts the use of deadly force against the operator of a vehicle in every instance except when the vehicle is being used as a weapon against officers or others². This is to account for the possibility of attacks against the public and/or officers, such as those that have proliferated over the past few years³.

7: Require Use of Force Continuum

Establish a Force Continuum that restricts the most severe types of force to the most extreme situations and creates clear policy restrictions on the use of each police weapon and tactic.

APD adopted the Dynamic Response to Resistance Model (DRRM) in 2008, which supplanted the traditional “ladder” and “wheel” continuums the Department had previously employed⁴. The DRRM was created by agents assigned to the Federal Bureau of Investigation (FBI) to provide law enforcement agencies with a modern and progressive use of force continuum⁵. The progenitors of the model outlined the benefits of the new paradigm for the public and law enforcement agencies:

Agencies that adopt the dynamic response to resistance model can gain several advantages. First, the structure of the model brings every confrontation to a compliant resolution. The DRRM is based upon the obvious presumption that law enforcement officers seek no resistance (compliance) in all cases. Traditional use-of-force models guide officers into a pattern of escalation of force.

Second, a resistor’s behavior is placed in one of four easily recognized categories, providing more guidance to officers in the selection of the appropriate use of force.

² https://www.austintexas.gov/sites/default/files/files/Police/General_Orders.pdf (See General Order 202.1.3)

³ <https://transweb.sjsu.edu/sites/default/files/SP0518%20Vehicle%20Ramming%20Terrorism.pdf>
<https://www.fbi.gov/services/cjis/ucr/leoka>

⁴ https://austintexas.gov/sites/default/files/files/Police/2008_Response_to_Resistance_final_report.pdf

⁵ <https://leb.fbi.gov/file-repository/archives/sept07leb.pdf>

Third, the DRRM accurately focuses the initial use-of-force analysis on the resistor and better reflects the actual events that cause a police-citizen confrontation. Most other use-of-force models first direct attention to the acts of the officer and then belatedly explore what initiated the action.

Finally, the DRRM simplifies training on use-of-force options as officers can explain any encounter in a resistance—response or action—reaction equation. With appropriate training, officers have a clearer understanding of their force options, enhancing their safety and the effectiveness of the department.

8: Require Comprehensive Reporting

Require officers to report each time they use force or threaten to use force against civilians. Comprehensive reporting includes requiring officers to report whenever they point a firearm at someone, in addition to all other types of force.

APD has a comprehensive use of force inquiry, reporting, and review policy that was based on recommendations provided by the Department of Justice⁶. Departmental policy also requires officers to report whenever they actively target an individual with a firearm⁷.

⁶ https://www.justice.gov/sites/default/files/crt/legacy/2010/12/15/AustinPD_talletter_12-23-08.pdf

⁷ https://www.austintexas.gov/sites/default/files/files/Police/General_Orders.pdf (See General Order 211 for the Department's use of force reporting policy and policy 402.5 for reporting the targeting of an individual with a firearm)