

Policy Number: 300 Response to Aggression and Resistance
Effective Date: April 1, 2020
Revision Date: December 30, 2020
Approved By: Brandon Gatlin, Interim Chief of Police

300.1 PURPOSE AND SCOPE

This policy provides guidelines to police officers employed by the Montana State University Billings Police Department (Department) on reasonable responses to aggression and resistance and to ensure that Department response to aggression and resistance policies adhere to all existing applicable federal, state, and local laws. While there is no way to specify an exact

300.2 POLICY

Response to aggression and 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 be required to respond to aggression and resistance in carrying out their duties.

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

This Department recognizes and respects the value of all human life and dignity, without prejudice to anyone. Vesting officers with the authority to lawfully and reasonably respond to aggression and resistance and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present or observing another officer responding to aggression and resistance by 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 RESPONSE TO AGGRESSION AND RESISTANCE/USE OF FORCE

Officers shall respond to aggression and resistance using only the 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.

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 response to aggression and resistance in each incident.

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.

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.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

An officer may use reasonable force to arrest a person (§ 46-6-104, MCA).

300.3.2 THREAT MITIGATION

Whenever reasonable, officers should attempt to use de-escalation tactics to gain voluntary compliance and seek to avoid or minimize use of physical force.

When safe and feasible, officers should:

- a. Attempt to slow down or stabilize the situation so that more time, options, and resources are available.
 1. Mitigating the immediacy of a threat gives officers more time to call additional officers or specialty units and to use other resources.
 2. The number of officers on scene may make more force options available and may help reduce overall force used.
- b. Lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:
 1. Medical conditions
 2. Mental impairment
 3. Developmental disability
 4. Physical limitation
 5. Language barrier
 6. Influence of drug or alcohol use
 7. Behavioral crisis

Such considerations, when time and circumstances reasonably permit, shall be balanced against incident facts when deciding which tactical options are the most appropriate to resolve the situation safely.

300.3.3 DE-ESCALATION

De-escalation tactics include, but are not limited to:

- a. Placing barriers between an uncooperative subject and an officer
- b. Containing a threat
- c. Moving from a position that exposes officers to potential threats to a safer position
- d. Reducing exposure to a potential threat using distance, cover, or concealment
- e.

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

300.3.5 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling an assaultive 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.

- 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 use of force complained of injury or continuing pain.
- d. The individual indicates intent to pursue litigation.
- e. Any application of the Conducted Electrical Weapons (CEW).
- f. Any application of a restraint device other than handcuffs, shackles or belly chains.
- 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

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or

- a. Obtain the basic facts from the involved officer(s). 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. 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 criminal and potential civil litigation has expired.
- d. Identify any witnesses not already included in related reports.
- e. Review and approve all related reports.
- f. 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 notify their direct supervisor immediately.
- g. 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.

300.7.1 PATROL SERGEANT RESPONSIBILITY

The Patrol Sergeant shall review each use of force, by any personnel within his/her command, to ensure compliance with this policy and to address any training issues.

300.7.2 RESPONSE TO AGGRESSION AND RESISTANCE REVIEW BOARD

In addition to other reporting and review requirements outlined in this policy, the Chief of Police may request a Response to Aggression and Resistance Review Board investigate the circumstances surrounding

- c. Equipment needs recommendations.
- d. Policy revision recommendations

(Cancels and Replaces 103.1 Use of Force)