De-escalation in Practice

Version 1.0 · Current · October 2026

What It Is

De-escalation is the use of time, distance, communication, and positioning to reduce the urgency of a conflict, expand available tactical options, and lower the probability that force will become necessary or unavoidable. It is both a communication practice and a spatial discipline: it cannot work without the time and distance that make communication possible.

De-escalation is not a constitutional duty under federal law. The Supreme Court has not established an affirmative obligation for officers to attempt de-escalation before using force, and a failure to de-escalate does not, by itself, convert otherwise reasonable force into excessive force. What de-escalation does is change the conditions under which the force question arises – the amount of time available, the information gathered, the options still open, and the encounter trajectory that leads to the force decision.

The Legal Context

Federal excessive-force law after *Barnes v. Felix* (2025) evaluates force under the totality of the circumstances without an artificial time limit. Relevant prior events – why officers were there, how they approached, what distance they maintained, what they said, whether they gave the subject time to respond – are part of the constitutional analysis. That does not mean every tactical choice is a constitutional question. Courts distinguish between poor tactics, negligence, reckless escalation, and objectively unreasonable conduct; only the last is a constitutional violation.

The practical implication is that de-escalation decisions are pre-force decisions, and after *Barnes*, pre-force decisions belong in the picture. An officer who rushes an armed person, abandons available cover, closes to contact range before attempting communication, or initiates a rapid physical confrontation with a contained subject creates conditions in which the apparent need for force is partly self-generated. Courts in the Tenth Circuit – particularly after *Allen v. Muskogee* (1997) and *Estate of Ceballos v. Husk* (2019) – have found that reckless or deliberate officer conduct immediately connected to a use of deadly force can be considered as part of the constitutional analysis. This is not universal; circuit approaches vary. But the direction of legal doctrine is toward broader temporal review, not narrower.

Commands and Compliance

Commands are the primary communication tool in a de-escalation sequence, but the legal analysis of commands is more nuanced than pass/fail compliance. Federal courts have consistently held that failure to comply immediately with a command does not automatically constitute active resistance or justify force.

The central questions are:

Was the command clear and specific? Multiple simultaneous commands, conflicting instructions, or vague directives make compliance structurally difficult. A person ordered to "don't move" and "get on the ground" at the same time has been given a contradiction, not a command.

Did the subject have a meaningful opportunity to comply? Courts have found that an officer who uses force before the subject has had a reasonable opportunity to begin complying has used force to compel compliance with a command, not in response to noncompliance. *Bagley v. Guillen* (5th Cir. 2024) held that "force may sometimes be reasonable when a person refuses lawful commands, but not after that person has begun to comply."

Was compliance physically possible? A subject who is pinned, restrained, or incapacitated by prior force may be unable to perform a commanded movement. Coding the failure as resistance requires that the subject had both the understanding and the physical capacity to comply.

Did prior force impair compliance? Conducted-energy weapon deployment is designed to produce neuromuscular incapacitation. Commanding "drop the knife" during an active electrical cycle is a command to a person whose voluntary motor control is being overridden. Knife retention during NMI is not necessarily refusal. The same principle applies after chemical agent deployment and physical takedowns.

Time as a Tactical Resource

De-escalation cannot occur faster than a person can process a social situation. A subject in behavioral or mental-health crisis may need additional time to register that police have arrived, understand what is being asked, and respond in a way that appears compliant to observers. Officers who treat every second of apparent non-response as escalating resistance compress the encounter into a force sequence before de-escalation has had a realistic opportunity to work.

Time has limits. A subject who is actively advancing, attacking, or threatening a third party cannot be contained by time alone, and de-escalation principles do not require officers to absorb injury while waiting for a subject to choose compliance. The operational distinction is between a contained encounter where time is available and an active-threat encounter where it is not.

Communication Across Disability and Crisis

Mental-health crisis, intellectual disability, intoxication, head injury, and acute psychosis all impair a person's ability to process commands and respond in predictable ways. This does not eliminate the government's interest in controlling a dangerous situation, but it does reduce the weight of apparent noncompliance as evidence of defiance.

An officer who recognizes crisis indicators – responding to unseen stimuli, fragmented speech, failure to track the officer's movements, apparent confusion about the situation – and continues escalating commands as though the subject is making a deliberate tactical choice to refuse is misreading the encounter. Effective de-escalation in crisis contexts requires adjusting both the pace and the content of communication to what the subject can actually process.

CIT training is relevant here not only operationally but legally: under *Monell* doctrine, an agency's failure to train officers to recognize and respond to behavioral health crises, where that failure causes a constitutional violation, can create municipal liability.

Policy Implications

1. De-escalation training must include spatial skills. Verbal technique without distance management is a contradiction. Officers who cannot maintain standoff under pressure, in confined spaces, or when a subject is moving cannot create the conditions for de-escalation to work.
2. Document the attempt before the force. Reports should record what communication occurred, how the subject responded, what time elapsed, and why the situation required immediate force rather than continued de-escalation. Absence of documentation is not evidence that no attempt was made, but it creates a factual void that later review will fill unfavorably.
3. Train the command sequence, not the command. Officers who give a single command and immediately escalate when it is not completed are not using commands as de-escalation; they are using them as procedural prelude to force. Effective command sequences include specific instructions, realistic time, observable response assessment, and reassessment of compliance before escalation.
4. Distinguish policy from constitutional floor. An agency can require de-escalation attempts in every feasible situation as a matter of policy. That policy requirement does not mean that every failure to de-escalate is a constitutional violation. Reviewers should be explicit about which standard they are applying.

HOW TO CITE

Edged-Weapon Response Lab. (2026). *De-escalation in Practice*. In *EWRL Evidence Library* (Version 1.0). https://droptheknife.org/bulletins/de_escalation_in_practice (https://droptheknife.org/bulletins/de_escalation_in_practice)