

## Use of Force

### 300.1 PURPOSE AND SCOPE

It is the policy of the St. Louis Park Police Department to provide officers with guidelines for the use of force and deadly force in accordance with:

- MN STAT 626.8452 DEADLY FORCE AND FIREARMS USE; POLICIES AND INSTRUCTION REQUIRED;
- MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;
- MN STAT 609.06 AUTHORIZED USE OF FORCE; MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; and
- MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Weapon (CEW) policies.

#### 300.1.1 DEFINITIONS

Definitions related to this policy include:

- (a) **Force:** Intentional actions by an officer that the officer knows, or reasonably should know, is likely to cause a non-consensual, harmful, or offensive bodily contact with another, or places another in imminent fear of a non-consensual, harmful, or offensive bodily contact.
- (b) **Bodily Harm:** Physical pain or injury.
- (c) **Great Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- (d) **Deadly Force:** Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
- (e) **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.
- (f) **Other Than Deadly Force:** Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm
- (g) **Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

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- (h) **Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.
- (i) **Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force
- (j) **Choke Hold:** A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries. (MS 609-06-3-b)
- (k) **Authorized Device:** A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
  - 1. Obtained training in the technical, mechanical, and physical aspects of the device, and
  - 2. Developed a knowledge and understanding of the law, rules, and regulations regarding the use of such device.
- (l) **Chemical Aerosol:** A chemical containing Orthochlorbenzalmalononitrile (CS) and / or Oleoresin Capsicum (OC) in a handheld container disseminated with a liquid or gas propellant.
- (m) **Chemical Munitions:** A chemical containing Orthochlorbenzalmalononitrile (CS), Oleoresin Capsicum (OC), and Hexachloroethane (HC - Smoke) disseminated in a projectile with a liquid carrier or a pyrotechnic (burning) grenade.
- (n) **Contact Weapons:** All objects and instruments that are used, or are designed to be used, to apply force to another by coming into physical contact with that person. Contact weapons include, but are not limited to, police batons and flashlights.
- (o) **Conducted Electrical Weapon (CEW) (i.e., Taser):** The conducted electrical weapon is designed to disrupt a subject's central nervous system by means of deploying battery powered electrical energy sufficient to cause muscle contractions and override an individual's voluntary motor responses.
- (p) **Positional Asphyxiation:** Positional (postural) asphyxia is a form of mechanical asphyxia that occurs when a person is immobilized in a position which impairs adequate pulmonary ventilation and thus, results in a respiratory failure. In some cases, the body position has a direct hindering effect on normal circulation and venous return to the heart, which may be additional contributing factors to the obstruction of normal gas exchange (definition from US NIH).
- (q) **Critical Incident:** Critical incidents include officer-involved shootings and other situations involving most or all of the following circumstances:
  - 1. An officer has used force or taken other actions,
  - 2. The officer's actions resulted in death or serious injury to another,
  - 3. A review of the officer's conduct for compliance with criminal laws is likely to occur regardless of whether there is a citizen complaint,
  - 4. It is foreseeable that the event will result in at least some degree of media interest or public scrutiny toward the agency and officer, or

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5. The circumstances will warrant due consideration for the emotional health and well-being of the officers involved.

#### **300.2 POLICY**

Every person has the right to be free from excessive use of force by officers acting under the color of law. In accordance with our mission and values as an agency, we are committed to building and maintaining partnerships with the community we serve, to transparency, to fundamental fairness, to treating everyone with respect and dignity and to listening to the voices of the community.

Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. It is the policy of this law enforcement agency to ensure officers respect the sanctity of human life when making decisions regarding use of force. Officers shall treat everyone with dignity and without prejudice. Officers shall use only that 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, and to protect the safety of others and the officer.

Officers should exercise special care when interacting with individuals with known or perceived physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

It is the intent of this policy that officers use deadly force only when necessary in defense of human life or to prevent great bodily harm. The decision by an officer to use force or deadly force shall be evaluated from the perspective of a reasonable officer\* in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using such force.

This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties. Violations of this policy may result in progressive discipline up to and including suspension, termination of employment, civil or criminal penalties as required by law.

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.

*\*In Graham v. Connor, the courts defined this reasonable officer standard - The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.*

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#### 300.2.1 DUTY TO INTERCEDE AND REPORT

Any officer present and observing another law enforcement officer or a member using force that is in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances, when physically or verbally able to do so, shall intercede to prevent the use of unreasonable force (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

Any officer who observes another law enforcement officer or a member use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting officer. St. Louis Park Personnel Manual Section 13.2 states that there will be no retaliation as a result of bringing a claim forth or cooperating in an investigation. (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

#### 300.2.2 ADDITIONAL REQUIREMENTS

An officer reporting a use of force by another law enforcement officer or member pursuant to this policy shall also make the report in writing to the Chief of Police within 24 hours (Minn. Stat. § 626.8475).

#### 300.2.3 PERSPECTIVE

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

### **300.3 USE OF FORCE**

Officers shall use only that 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 use of force 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.

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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 OPERATIONAL STANDARDS

- (a) Officers shall use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision shall not be construed, however, to require officers to first attempt using types and degrees of force which reasonably appear to be inadequate to accomplish the intended objective.
- (b) Protracted physical combat may pose safety risks to the public, the safety of police officers, and the safety of the person being arrested or captured. Accordingly, it shall be deemed reasonable for officers to use that type and degree of other than deadly force necessary to bring a subject who the officer intends to arrest or capture quickly under control.
- (c) Use of physical force shall be discontinued when resistance ceases or when the incident is under control.
- (d) 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 amount of force necessary to control the situation shall be used.
- (e) It is not a use of force when a person allows themselves to be searched, escorted, handcuffed, or restrained.

#### 300.3.2 ALTERNATIVE TACTICS - DE-ESCALATION

An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.

Whenever possible and when such delay will not compromise the safety of another or the officer and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

#### 300.3.3 USE OF FORCE TO EFFECT AN ARREST

An officer may use other than deadly force (Minn. Stat. § 609.06 and Minn. Stat. § 629.33):

- (a) In effecting a lawful arrest.
- (b) In the execution of a legal process.
- (c) In enforcing an order of the court.
- (d) In executing any other duty imposed by law.
- (e) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.

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- (f) In restraining a person with a mental illness or a person with a developmental disability from self-injury or injury to another.
- (g) In self-defense or defense of another.

An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

#### 300.3.4 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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 suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.
- (g) Proximity of weapons or dangerous improvised devices.
- (h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (i) The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- (j) Seriousness of the suspected offense or reason for contact with the individual.
- (k) Training and experience of the officer.
- (l) Potential for injury to officers, suspects, and others.
- (m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (n) The risk and reasonably foreseeable consequences of escape.
- (o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (q) Prior contacts with the individual or awareness of any propensity for violence.
- (r) Any other exigent circumstances.

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#### 300.3.5 STATE RESTRICTIONS ON THE USE OF OTHER RESTRAINTS

Officers may not use any of the following restraints unless the use of deadly force is authorized (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- (a) A chokehold.
- (b) Tying all of an individual's limbs together behind the person's back to render the person immobile.
- (c) Securing an individual in any way that results in transporting the person face down in a vehicle.

Less than lethal measures must be considered by the officer prior to applying these measures.

#### 300.3.6 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the St. Louis Park Police Department for this specific purpose.

#### 300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary (Minn. Stat. § 609.066):

- (a) To protect the officer or another from death or great bodily harm.
- (b) To effect the arrest or capture, or prevent the escape, of an individual whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person unless immediately apprehended.

In both scenarios, the use of deadly force is only authorized provided that the threat (Minn. Stat. § 609.066):

- Can be articulated with specificity.
- Is reasonably likely to occur absent action by the officer.
- Must be addressed through the use of deadly force without unreasonable delay.

An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose

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a threat of death or great bodily harm to the peace officer or to another under the threat criteria immediately above. (Minn. Stat. § 609.066)

#### **300.4.1 MOVING VEHICLES**

Shots fired at or from a moving vehicle involve additional considerations and risks, and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

#### **300.5 REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. The required report for documenting uses of force is the Resistance Response Report. Department members should note that the Critical Incidents – Officer Involved Shootings and Deaths policy establishes limitations on this requirement.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

Required reports shall be completed by officers before the end of their shift unless a reasonable delay is approved by a supervisor. Supervisors shall review all incidents involving the use of force with all officers involved and submit the supervisor's evaluation as to whether the officer's actions complied with the provisions of this section. This is done in the review section of the Resistance Response Report.

#### **300.5.1 NOTIFICATIONS TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (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 force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the CEW or control device.



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- (f) Any application of a restraint device other than handcuffs or similar restraints.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

#### 300.5.2 STATE REPORTING REQUIREMENTS

The Chief of Police shall provide for the filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).

#### **300.6 MEDICAL CONSIDERATIONS**

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

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#### **300.7 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. 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, if possible, as well as overall photographs of uninjured areas.
- (d) Review and approve all related reports.
- (e) 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.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

##### **300.7.1 DUTY SERGEANT RESPONSIBILITY**

The Duty 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.

#### **300.8 TRAINING**

- (a) All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
  1. In addition, training shall be provided on a regular and periodic basis and designed to
  2. Provide techniques for the use of and reinforce the importance of de-escalation
  3. Simulate actual shooting situations and conditions
  4. Enhance officers' discretion and judgment in using other than deadly force in accordance with this policy
  5. Comply with MN §626.8469 POST Learning Objectives related to:
    - (a) **Implicit Bias**
    - (b) **Crisis Response**
    - (c) **Conflict Management**
    - (d) **Cultural Diversity**
    - (e) **Autism Awareness**

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6. The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.
  - (b) Before being authorized to carry a firearm, all officers shall receive training and instruction with regard to the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.
  - (c) Before carrying an authorized device all officers shall receive training and instruction in the use of the device including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.
  - (d) Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
  - (e) No officer shall modify, alter, or cause to be altered an approved weapon in their possession or control. This provision shall not be construed to prohibit officers from modifying grips on approved firearms in the officer's possession or control.

#### **300.8.1 PROHIBITED TRAINING**

Warrior-style training, defined in Minn. Stat. § 626.8434, whether provided directly by the Department or through a third party, is prohibited (Minn. Stat. § 626.8434). Warrior-style training is training that dehumanizes people, encourages aggressive conduct by officers, deemphasizes the value of human life or constitutional rights and thereby increases an officer's likeliness to use deadly force.

#### **300.9 POLICY REVIEW**

The Chief of Police or the authorized designee should annually review and update this policy to reflect developing practices and procedures.