

ST. CLOUD POLICE DEPARTMENT
Law Enforcement
Policies and Procedures

Subject: Use of Force	Policy Number: 218
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Reviewed By: Adam Meierding, Commander	Review Date: 02-12-13, 10-02-19, 12-11-20, 01-03-22

POLICY

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. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. Officers shall treat everyone with dignity and without prejudice and use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of others and the officer.

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.

Officers should exercise special care when interacting with individuals with known 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.

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

This policy applies to all licensed peace officers engaged in the discharge of official duties.

AUTHORITY

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.

Weapon: An instrument or object used, or designed to be used, to apply force to the body of another person.

Approved Weapon: An instrument or object (device) which the department has authorized officers to carry and use in the discharge of their duties, and, for which the officer has:

- received training in the technical, mechanical, and physical aspects of the instrument and pass a qualification course or demonstrate proficiency; and,

- has developed a knowledge and understanding of the law, rules, and regulations regarding the use of such weapons.

Approved weapons are listed in General Order 297.

Chemical Agents: Non-deadly weapons employing chemicals which are irritants to the eyes, nose, and skin.

Taser: Is a hand-held, laser-aimed, battery-operated, conducted energy weapon (CEW). Voltage is applied to a subject by two probes connected to conductive wires propelled from a nitrogen charged cartridge, or from direct contact. The unit uses a Neuro-Muscular Incapacitation (NMI) system, which overrides the central nervous system and affects the sensory and motor nervous system resulting in temporary, involuntary muscle contractions. The contractions will incapacitate a subject so they can be placed under the control of Law Enforcement Officers, Community Service Officers, or their designees.

Contact Weapons: All instruments or objects (devices) defined as Approved Weapons which are used, or are designed to be used, to apply force to the body of a person by coming into physical contact with that person.

Deadly Force: Force which the actor uses with the purpose of causing, or which the actor should reasonably 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.

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.

Reasonable Force: The amount of force necessary to reasonably overcome the force being applied against a police officer, or another individual, or that amount of force needed to successfully secure a person in custody.

Restraining Force: Force which is limited to holding and restraining persons to keep them in custody.

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.

Bodily Harm: Physical pain or injury.

Substantial Bodily Harm: Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

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 body member or organ or other serious bodily harm.

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.

PROCEDURE

General Provisions

Use of physical force should be discontinued when resistance ceases or when the incident is under control.

1. 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.
2. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
3. All uses of force shall be documented and reviewed pursuant to this agency's policies.

a) Duty to Intercede

Regardless of tenure or rank, an officer must intercede when:

- a. present and observing another officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
- b. physically or verbally able to do so.

b) Duty to Report

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident as soon as practical and within 24 hours to their appropriate chain of command. The report will always be forwarded up to the Chief of Police or their designee for review.

c) De-escalation:

1. Officers are specifically prohibited from actions that unreasonably escalate an incident to a situation requiring the use of force.

2. 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.
3. 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.

d) Use of Other Than Deadly Force

1. When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances:
 - a. effecting a lawful arrest; or
 - b. the execution of legal process; or
 - c. enforcing an order of the court; or
 - d. executing any other duty imposed upon the public officer by law; or
 - e. defense of self or another.
2. Contact Weapons
 - a. Contact weapons, as listed in General Order 297 of the department manual, may be used by an officer against another person only when it is reasonably apparent that a lower level of force would be inadequate to control the situation.
 - b. Contact weapons shall not be used once an individual is subdued and under control.
 - c. An officer shall not intentionally strike a person in body areas likely to result in great bodily harm or death unless such action would be justified under the Use of Deadly Force section. Areas to avoid and those to strike are specific for each type of contact weapon. These areas are taught during training for each weapon.
 - d. Officers using a contact weapon against another person should attempt to strike, if possible, body areas likely to result only in temporary incapacity.
3. Chemical Weapons
 - a. The use of chemical agents shall be governed by the Use of Non-Deadly Force section. Chemical agents may be used by an officer when it is reasonably apparent that a lower level of force would be inadequate to control the situation.
 - b. Officers shall exercise due care for their own safety and that of other persons in the area when using chemical agents.

- c. Chemical agents shall not be used once an individual is subdued and under control nor shall it or any other force be used for purposes of punishment.
- d. Chemical agents may be used in appropriate crowd control situations to direct and control the movement of people or disperse them.

4. Taser

- a. The Taser may be used in situations where force is justified to control a subject that is noncompliant, aggressive, or combative, and it is reasonably apparent that a lower level of force would be inadequate to control the situation. The use of Tasers shall be governed by the Use of Non-Deadly Force section found in this order and St. Cloud Police Department Taser Policy #219.
- b. Officers shall exercise due care for their own safety and that of other persons in the area when using the Taser. (See Safety Considerations SCPD Policy #219)
- c. The Taser may be drawn or exhibited only in situations where it is reasonably anticipated its use may be required. The deploying officer shall inform other officers of the presence and/or planned use of a Taser so the Taser is not confused with the officer's duty weapon.
- d. The Taser shall not be cycled (used) once an individual is under control and compliant nor shall it or any other force be used for purposes of punishment.

e) Use of Certain Types of Force

- 1. Except in cases where deadly force is authorized as articulated in Minn.Stat. §609.066 to protect the peace officer or another from death or great bodily harm, officers are prohibited from using:
 - a. Chokeholds,
 - b. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
 - c. Securing a person in any way that results in transporting the person face down in a vehicle.
- 2. Less than lethal measures must be considered by the officer prior to applying these measures.

f) Use of Deadly Force

- 1. An officer is authorized to use deadly force 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. Use of deadly force is justified when one or both of the following apply;

- a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - i. can be articulated with specificity;
 - ii. is reasonably likely to occur absent action by the law enforcement officer; and
 - iii. must be addressed through the use of deadly force without unreasonable delay; or
 - b. To effect the arrest or capture, or prevent the escape, of a person whom the peace 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 under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
2. 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 a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).
 3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
 4. Firearms
 - a. Firearms may be drawn or exhibited only in situations where it is reasonably anticipated their use may be required.
 - b. Firing a weapon at or from a moving vehicle is inherently dangerous, to both the officer and the general public. Officers are not expressly prohibited from discharging a firearm at a vehicle. However, officers should avoid firing a weapon at or from a moving vehicle except:
 - i. Where circumstances permit the use of deadly force under Minn. Stat. §609.066; and,
 - ii. After careful consideration of the possibility of injury or death to innocent third parties.
 - c. Warning shots shall not be fired.
 - d. Firearms may be used to kill dangerous animals or humanely kill suffering animals and no other reasonable means are available.
 - e. Ammunition - .223 Rifle. The St. Cloud Police Department will utilize 55 grain ammunition in the .223 caliber rifle.

g) Training

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
2. In addition, training shall be provided on a regular and periodic basis and designed to
 - a. Provide techniques for the use of and reinforce the importance of de-escalation
 - b. Simulate actual shooting situations and conditions; and
 - c. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.
3. 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.
4. 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.
5. 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.
6. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.

h) Medical Attention

1. Any person in obvious distress or otherwise incapacitated that does not recover from the use of force applied shall be transported for medical treatment, or at minimum seen by ambulance paramedics.
2. All persons who have force applied to their body by a contact weapon, including hands and feet, shall be afforded the opportunity for medical attention.
3. Persons affected by chemical agent shall be offered medical attention, if the agent manufacturer's recommended methods of dispersing the effects of the agent do not improve the person's physical condition in a reasonable time.
4. When the Taser has been used on a subject, the deploying officers must offer medical treatment to the subject. An officer of the same gender (if possible) shall remove the darts from a subject. Once the darts are removed from the subject, the officer shall use an alcohol swab and a band aid to treat the area. Officers should look for secondary type injuries (falling to the ground). If the darts strike soft tissue areas the subject must be taken to the

hospital for dart removal and medical treatment. Soft tissue areas include the eyes, neck, breasts, and groin/genital area. (See SCPD Policy #219)

5. Officers involved in the use of deadly force where a firearm has been discharged shall, as soon as conditions are safe, render emergency medical assistance as needed to any victim(s) injured by the use of deadly force.
6. If a person refuses medical treatment, the offering of medical attention and the refusal shall be recorded and/or occur in the presence of a witness. If an ambulance has been called, the refusal will be in accordance with the ambulance company's refusal for further treatment/transport policy.

i) Reporting Requirements

1. The Chief of Police or their designee shall maintain records of the agency's compliance with use of force training requirements.
2. Use of Force Report prepared according to departmental procedures shall be required of each officer present or involved in a situation where deadly or non-deadly force greater than restraining force has been used.
3. If restraining force was used, it shall be described in the Incident Report or Crime Report.
4. Any time a firearm is discharged, other than in training, destruction of animals, or for recreational purposes, a Use of Force Report shall be required.
5. A supervisor will be immediately notified by the officers involved in the following situations:
 - a. When the firearm is discharged by an officer outside of a firing range.
 - b. When use of force by an officer results in death or injury of a person.
 - c. When a weapon has been used on a person by an officer.
 - d. Accidental discharge of a firearm.
6. Supervisors shall review all incidents involving the use of force. An evaluation report on the incident shall be submitted by the supervisor if substantial bodily harm resulted because of the use of force. This report shall contain the supervisor's evaluation of the officer's actions. The criteria used by the supervisor to evaluate the officer's actions are contained in this order. The supervisor's evaluation will be conclusive.
7. All incidents involving the discharge of a firearm by a police officer shall be reported as required under Minnesota law. The supervisors shall complete such reports and submit to the Chief of Police or their designee via the chain of command.

8. A certified copy or the original tape recording of all radio transmissions, phone calls, and a print-out of Mobile Data Terminal (MDT) transmissions prior to, during, and after an incident involving deadly force shall be obtained by the supervisor. Similarly, as appropriate with incidents of non-deadly force.

i) Department Response

1. Deadly Force Incidents

- a. Where a police officer's use of force results in the death of another person, the department will ensure the completion of both an administrative and criminal investigation. The department and its members shall cooperate fully during the course of the investigations.

2. Personnel Actions in Deadly Force Incidents

- a. When a police officer uses deadly force, the officer shall be placed on administrative leave (non-disciplinary)
- b. The officer shall remain on administrative leave and may be required to be evaluated by a health professional for a determination of fitness for duty.
- c. If physically injured, the officer may remain on administrative leave or sick leave until the officer is determined to be physically capable of returning.
- d. At the discretion of the Chief of Police, the officer(s) involved in a deadly force incident may be returned to full active duty assignment or otherwise assigned if deemed mentally and physically ready to return to duty.

3. Non-Deadly Force Incidents

- a. When a police officer's use of force results in substantial bodily harm to another person, the department will ensure the completion of an administrative investigation. The Chief of Police may direct that a non-deadly force incident be criminally investigated. Department members shall fully cooperate with both an administrative and/or criminal investigation.
- b. Nothing in this section shall be construed to deny the officer exercise of their constitutional guarantees.

4. Personnel Actions in Non-Deadly Force Incidents

- a. When a police officer's use of force results in substantial bodily harm to another person, the officer may be placed on administrative leave (non-disciplinary) after completing all investigative and reporting requirements.

- b. The officer shall remain on administrative leave, if so placed, and may be required to be evaluated by a mental health professional for a determination of fitness for duty.
- c. If physically injured, the officer may remain on administrative leave or sick leave until he or she is determined to be physically capable of returning to duty.
- d. At the discretion of the Chief of Police or their designee, the officer(s) involved in a non-deadly force incident may be returned to full active duty assignment or otherwise assigned if deemed medically ready to return to duty.

5. Administrative Review

- a. All Use of Force Reports shall be forwarded through channels to the Chief of Police or designee for final disposition.
- b. The supervisor's investigation will determine if:
 - i. The use of force was within department rules, policies and procedures.
 - ii. Officers involved acted appropriately with regard to this order.
 - iii. Policy changes should be considered.
 - iv. Training needs should be considered.