

USE OF FORCE AND DEADLY FORCE MODEL POLICY
Minnesota Statutes, Section 626.8452, Subdivision 1

I. POLICY

It is the policy of the _____ (law enforcement agency) to provide officers with guidelines for the use of force and deadly force in accordance with:

MN Statutes, Section 626.8452 Deadly Force and firearms use; policies and instruction required;
MN Statutes, Section 609.06 Authorized Use of Force;
MN Statutes, Section 609.065 Justifiable Taking of Life; and
MN Statutes, Section 609.066 Authorized Use of Force by Peace Officers.

This policy applies to all peace officers and part-time peace officers engaged in the discharge of official duties.

II. DEFINITIONS

- A. **Non-Deadly Force:** all 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.
- B. **Deadly Force:** all use of force techniques 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.
- 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. **Weapon:** any instrument used, or designed to be used, to apply force to the person of another.
- E. **Approved Weapon:** a device or instrument which 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:
 - obtained training in the technical, mechanical and physical aspects of the device; and
 - developed a knowledge and understanding of the law, rules and regulations regarding the use of such weapons.
- F. **Impact Weapons:** objects and instruments that are used, or are designed to be used, to apply force to the person of another by coming into physical contact with that person.
- G. **Chemical Agents:** chemical irritants including CN/Chloracetophenone, OC/Oleoresin Capsicum, CS/Orthochlorobenzalmalononitrile or combinations of these chemical agents.
- H. **Electronic Incapacitation Devices:** a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current. Per MN Statutes, Section 624.731, Subd. 1(b), Electronic incapacitation device does *not* include cattle prods, electric fences or other electric devices that are used in agricultural, animal husbandry or food production activities.

III. PROCEDURE

A. Use of Deadly Force

It is the policy of this agency to accord officers discretion in the use of force to the extent permitted by MN Statutes, Section 609.066, Subd. 2, which authorizes peace officers acting in the line of duty to use deadly force only when necessary to:

1. protect the peace officer or another from apparent death or great bodily harm;
2. 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 involving the use or threatened use of deadly force; or
3. 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 if the officer believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

If feasible, an officer should give a verbal warning before using or attempting to use deadly force.

B. Use of Non-Deadly Force

It is the policy of this agency to accord officers discretion in the use of non-deadly force to the extent permitted by MN Statutes, Section 609.06, which permits police officers to use reasonable force in:

- effecting a lawful arrest; or
- the execution of legal process; or
- enforcing an order of the court; or
- executing any other duty imposed upon the public officer by law.

In determining the degree of force that is reasonable under the circumstances, officers should consider:

- the severity of the crime at issue;
- whether the suspect poses an immediate threat to the safety of the officers or others;
and
- whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

C. General Rules Governing Use of Force

1. Officers should use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision should not be construed to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.
2. Protracted hand-to-hand combat may be harmful to the public safety, the safety of law enforcement personnel, 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 non-deadly force necessary to bring a subject whom the officer intends to arrest or capture quickly under control.
3. Officers will carry and use only approved weapons unless circumstances exist which pose an imminent threat to the safety of the officer or the public requiring the immediate use of a

non-approved weapon to counter such a threat. This provision should not be construed as authorizing officers to use a non-approved weapon where, under the circumstances, it would be feasible to procure approval for use of the particular weapon prior to its use.

4. No officer will modify, alter or cause to be altered an approved weapon in his or her possession or control.
5. Displays of Firearms - firearms may be readied for use in situations where it is reasonably anticipated that they may be required.
6. Threatening the Use of Force - an officer may announce to another his or her intention to use only that type and degree of force that may reasonably be necessary under the circumstances. This provision should not be construed to authorize or endorse the use of discourteous, abusive or unprofessional language.

D. Specific Rules Relating to the Use of Specific Weapons

1. Impact Weapons

- a) Impact weapons should be used only where efforts involving the use of less force have failed or where it reasonably appears that such methods would be ineffective if attempted.
- b) Officers striking another person with an impact weapon should avoid striking, if possible, bodily areas likely to result in serious injury or death unless deadly force is authorized under this section. These areas include the head, neck, throat, groin, armpits and spine.
- c) Officers striking another person with an impact weapon should attempt to strike, if possible, bodily areas likely to result only in incapacity. These areas include center mass target areas such as the arms, legs and body.

2. Chemical Agents

The provisions governing non-deadly force will govern the use of chemical agents. Only chemical agents that are approved weapons will be used.

- a) Officers will exercise due care to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.
- b) Chemical agents will not be applied to any person for the purpose of effecting punishment.
- c) First aid or medical attention will be provided to all persons sprayed with chemical agents.

3. Use of Electronic Incapacitation Devices

- a) The use of electronic incapacitation devices will be subject to the provisions governing non-deadly force.
- b) Only electronic devices that are approved weapons, as previously defined, will be used.

E. Reporting Requirements

Agencies should consider the following reporting requirements:

- how and when use of force reports will be required of officers;

- who will review the reports;
- how the reports will be used;
- the retention of the reports;
- who will have access to the reports; and
- procedures to be followed if the agency's use of force policy is violated.

Agencies should also consider procedures for dealing with officers after a use of force incident that results in serious injury or death. In addition, agencies should make available resources with expertise in post-trauma stress.

F. Training Considerations

The following training guidelines are required by **Minnesota Statute 626.8452 [Deadly Force and firearms use; and polices and instruction]**. Please note these are *training* requirements, *not policy* requirements.

Subdivision 2. Deadly Force and firearms use; initial instruction. Beginning January 1, 1992, the head of every local and state law enforcement agency shall provide the instruction on the use of force, deadly force, and the use of firearms to every peace officer and part-time peace officer newly appointed by or beginning employment with the agency. This instruction must occur before the agency head issues a firearm to the officer or otherwise authorizes the officer to carry a firearm in the course of employment. The instruction must be based on the agency's written policy and on the instructional materials required by the Board for peace officer and part-time peace officer licensure.

Subdivision 3. Deadly force and firearms use; continuing instruction. Beginning January 1, 1992 the head of every local and state law enforcement agency shall provide the instruction described in subdivision 2 to every peace officer and part-time peace officer currently employed by the agency. This instruction must be provided at least once a year.

Recordkeeping required. The head of every local and state law enforcement agency shall maintain written records of the agency's compliance with the requirements of Subdivisions 2 and 3.

Licensing sanctions; injunctive relief. The Board may impose licensing sanctions and seek injunctive relief under MN Statutes, Section 214.11 for failure to comply with the requirements of this section.

It is our policy that before being authorized to carry a firearm, all officers shall receive training and instruction with regard to: the proper use of deadly force; the agency's policies and state statutes with regard to such force; and be provided with copies of said policies and statutes. Such training and instruction shall continue throughout the officer's duty career and on an annual basis.