

201. USE OF FORCE



**RICHFIELD
POLICE
DEPARTMENT
POLICY**

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No. of Pages: 9
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Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

This Policy provides officers with guidelines on the use of deadly and non-deadly force. It also outlines the training policy of this Department in the area of "Use of Force."

II. POLICY

This Department recognizes and respects the value and preservation of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of the Department that police officers use the minimum force that is reasonably necessary to effectively bring an incident under control, while protecting the life of the officer and/or others.

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force 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 resistance while engaged in the performance of law enforcement duties. The Department recognizes and respects the value of all human life and dignity without prejudice to anyone, and is committed to resolving conflicts through the use of communication skills, crisis intervention and de-escalation tactics, when feasible. Officers may only use that force which is objectively reasonable, and only in furtherance of a legitimate, lawful objective. "Objective reasonableness" is a test based on the totality of the circumstances. *Graham v. Connor*, 490 U.S. 386 (1989). Officers will only apply force in a manner consistent with Federal guidelines, state statute, department policy, and training. As used in this policy, non-deadly force means the use of any weapon or instrument, or any physical action taken by an officer which is not likely to cause death.

Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

This Department complies with Minnesota State Statute 626.8452, "Deadly Force and Firearms Use; Policies and Instruction Required." Annual training will be provided to officers in compliance with this statute.

III. DEFINITIONS

The following definitions apply for the purpose expressed in this Policy:

DEADLY FORCE: Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury. Deadly Force is defined in Minn. Stat. 609.066 Subd. 1., "For the purposes of this section, "deadly force" means 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, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. "Less lethal

munitions” means projectiles which are designed to stun, temporary incapacitate, or cause temporary discomfort to a person. “Peace officer” has the meaning given in section Minn. Stat. 626.84, Subd. 1.”

USE OF DEADLY FORCE: Defined in Minn. Stat. 609.066 Subd. 2., as: “Notwithstanding the provisions on Minn. Stat. 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when necessary;

- 1) To protect the peace officer or another from apparent death or great bodily harm;
- 2) 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 involving the use of threatened use of deadly force; or
- 3) To effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person’s apprehension is delayed.”

GREAT BODILY HARM: Great bodily harm means 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.

FORCE: The application of any physical technique, tactics, instrument or weapons used by an officer to compel a subject’s compliance. It is not a use of force when a person allows him/herself to be searched, and/or handcuffed.

NON-DEADLY FORCE: The use of any weapon or instrument, or any physical action taken by an officer which is not likely to cause death.

LESS LETHAL FORCE: Force applied through the use of extended range kinetic energy impact devices that have less potential for causing death or serious physical injury than deadly force.

OBJECTIVELY REASONABLE: This term means that, in determining the necessity for and appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including but not limited to, the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community.

IV. PROCEDURE

Only weapons specifically approved in Department policies may be carried or used. Equipment, deadly or non-deadly, that is not specifically approved for use are prohibited.

USE OF FORCE

Under the Fourth Amendment of the United States Constitution a police officer may only use such force as is “objectively reasonable” under all of the circumstances. The standard that occurs will use to examine whether a use of force is constitutional was first set forth in Graham v. Connor, 490 U.S. 386 (1989) and expanded by subsequent cases. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 vision of hindsight.

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 the 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 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.

AUTHORIZED USE OF FORCE (MINN. STAT. 609.06 SUBD. 1)

Reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

- 1) When used by a public officer or one assisting a public officer under the public officer's direction:
 - (a) In effecting a lawful arrest; or
 - (b) In the execution of legal process; or
 - (c) In enforcing an order of the court; or
 - (d) In executing any other duty imposed upon the public officer by law;
- 2) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.
- 3) In restraining a person with mental illness or a person with a developmental disability from self-injury or injury to another.
- 4) In self-defense or defense of another.

USE OF FORCE DURING ARREST

Minimum Restraint Allowed for Arrest & Warrant Shown Upon Request: Minn. Stat. 629.32 reads:

A peace officer making an arrest may not subject the person arrested to any more restraint than is necessary for the arrest and detention. The peace officer shall inform the defendant that the officer is acting under a warrant, and shall show the defendant the warrant if requested to do so. An arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in hand at the time of the arrest, but if the person so requests the warrant must be shown to that person as soon as possible and practicable. A peace officer may lawfully arrest a person when advised by any other peace officer in the state that a warrant has been issued for that person.

When Force May Be Used to Make Arrest: Minn. Stat. 629.33 reads:

If a peace officer has informed a defendant that the officer intends to arrest the defendant, and if the defendant then flees or forcibly resists arrest, the officer may use all necessary and lawful means to make the arrest but may not use deadly force unless authorized to do so under section 609.066. After giving notice of the authority and purpose of entry, a peace officer may break open an inner or outer door or window of a dwelling house to execute a warrant if:

- 1) The officer is refused admittance;
- 2) Entry is necessary for the officer's own liberation; or
- 3) Entry is necessary for liberating another person who is being detained in the dwelling house after entering to make an arrest.

FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE:

When determining whether to apply 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 not limited to:

- (a) Immediacy and severity of the threat to officers or others.

- (b) The conduct of the individual being confronted, as reasonably received by the officer at the time.
- (c) Officer/subject factors (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) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject 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 person 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 subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose imminent threat to the officer or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

Necessary: Officers will use physical force only when no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to affect a lawful purpose.

Proportional: To be proportional, the level of force applied must reflect the totality of circumstances surrounding the situation, including the nature and immediacy of any threats posed to officers and others. Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it.

PARAMETERS FOR USE OF NON-DEADLY FORCE

- 1) Where deadly force is not authorized, officers should assess the incident in order to determine which non-deadly technique or weapon will best de-escalate the incident and bring it under control in a safe manner. Police officers are authorized to use Department-approved non-deadly force techniques and issued equipment and training for the resolution of incidents, as follows:
 - a) To protect themselves or another from physical harm;
 - b) To restrain or subdue a resistant individual;
 - c) To bring an unlawful situation safely and effectively under control.
- 2) When in uniform, police personnel should carry a Department authorized intermediate force weapon such as an approved baton, or chemical irritant and a Department issued Electronic Control Device unless assigned to duties that are primarily administrative in nature.
- 3) Flashlights or other objects carried by officers should not be used as a substitute for an authorized non-deadly weapon.
- 4) Strikes to the head, due to the potential threat of serious injury, shall be limited in their scope, and applied only when objectively reasonable and necessary in response to subjects displaying assaultive behavior against an officer.
- 5) Officers should be aware that non-deadly force can become lethal either because of lack of proper training or by using techniques that are not authorized by the Department.
- 6) Various unarmed control techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those techniques for which they have successfully

completed Department approved training. Officers utilizing any unarmed control technique should consider:

- a) The degree to which the application of the techniques are applied given the level of resistance.
- b) Whether the person can comply with the direction or orders of the officer.
- c) Whether the person has been given sufficient opportunity to comply.

The application of any unarmed control technique shall be discontinued once the officer determines that compliance has been achieved.

DEADLY FORCE

Use of deadly force is justified in the following circumstances:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
- (b) An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an officer reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the officer or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

DE-ESCALATION/CONFLICT MANAGEMENT

Whenever safe and feasible, officers will attempt to utilize de-escalation tactics and conflict management techniques in a manner consistent with department training.

Officers will use de-escalation techniques to prevent or reduce the need for force when it is safe and feasible to do so based on the totality of the circumstances. This includes continually assessing the situation and modifying the use of force as circumstances change and in ways that are consistent with officer safety.

Examples of De-escalation could include, but are not limited to:

- Placing barriers between an uncooperative subject and an officer
- Containing a threat
- Moving from a position that exposes officers to potential threats to a safer position
- Decreasing the exposure to potential threat by using: Back-up, distance/time, cover/concealment
- Communication from a safe position intended to gain the subject's compliance, using dialogue
- Any other tactics and approaches that attempt to achieve law enforcement objectives.

An officer's awareness of these possibilities, when time and circumstances reasonably permit, should then be balanced against the facts of the incident facing the officer when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.

Mitigating the immediacy of threat gives officers time to utilize extra resources and increases time available to call more officers or resources. The number of officers on scene may increase the available force options and may increase the ability to reduce the overall force used. When feasible, officers should approach an individual whom they anticipate may be taken into custody back-up present or immediately available.

Consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:

- Medical conditions
- Mental impairment
- Developmental disability
- Physical limitation
- Language barrier
- Influence of drug or alcohol use
- Behavioral crisis

PROHIBITIONS

The use of excessive force, unwarranted physical force, or unprofessional conduct by a Department member is prohibited and will not be tolerated.

Department members are prohibited from using force based on bias against a person's race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic. Force used as punishment or retaliation is prohibited.

REPORTING USES OF FORCE

Any physical application of force by a member of this Department **shall** be documented promptly, completely and accurately in an appropriate report. The officer **shall** explain and articulate the factors perceived and why he/she believed the use of force was justified and reasonable under the circumstances. The officer's justification of force used will be reviewed to determine whether the level of force used was in compliance with department standards and policy. Failure to adequately document the facts, circumstances, and inferences when reporting force may lead to the conclusion that the force used was in violation of policy.

A written report and a *Special Incident Review* will be required according to Department procedures, see *Special Incident Review Policy #138*.

- 1) Any use of force, threatened, deadly and non-deadly (exception handcuffing a compliant person(s);
- 2) Vehicle pursuits;
- 3) Use of canine for crowd control;
- 4) Officer assaulted;
- 5) SSU call-out;
- 6) Discharge of a firearm other than during training;
- 7) Use of a vehicle as deadly force;
- 8) Use of a roadblock;
- 9) Detention Area Incident;
- 10) Bias crime.

NOTIFICATION TO SUPERVISORS

A supervisor will be immediately summoned to the scene and will comply with investigative procedures as required 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 a 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 a Taser device or control device.
- (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 in the head or kicked.
- (i) An individual alleges any of the above occurred.
- (j) When an officer discharges a firearm outside the firing range.
- (k) When use of force results, or is alleged to have resulted, in death or injury.
- (l) When any deadly, less lethal, or non-deadly force weapon is used on a person.
- (m) When force is used beyond routine escort procedures to control a resisting combative subject.
- (n) When and Department action results in non-employee injury or death.

SUPERVISORY RESPONSIBILITY

When a supervisor responds 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, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) If there is an indication of potential civil litigation, the supervisor should notify the section Lieutenant.
- (g) Evaluate the circumstances surrounding the incident. If there is a question of policy non-compliance, 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.

DEPARTMENT RESPONSE

The abuse of police authority of the use of excessive force violates the constitutionally protected civil rights accorded to all citizens and constitutes the most serious breach of Departmental procedure. The willful violation of any individual's constitutionally protected rights by an employee of this Department **shall** subject the employee to severe disciplinary action, and may result in termination.

DUTY TO INTERCEDE

Any law enforcement officer of the Department who is witness to or has knowledge of a situation in which an individual's constitutionally protected rights were willfully violated by an employee of the Department or any other law enforcement agency **shall** advise a member of the command staff of the situation as soon as possible.

Any officer present and observing another officer 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 **shall** promptly report these observations to a supervisor and document their account in a memorandum.

Failure to comply with this rule will, for the purposes of administrative discipline, constitute aiding and abetting the original violator.

DEADLY FORCE INCIDENT

When an officer's use of force causes death, the officer **shall** be placed on administrative leave after completing all internal investigative requirements, and **shall** remain on paid administrative leave until it is determined by the Chief that the officer is ready to return to duty.

The Department **shall** conduct both an administrative and criminal investigation of the incident.

ADMINISTRATIVE REVIEW OF CRITICAL INCIDENTS

All reported uses of force should be reviewed by the command staff to determine whether:

- 1) Department rules, policy or procedures were violated;
- 2) The relevant policy was clearly understandable and effective to cover the situation;
- 3) Department training is currently adequate.

All findings of policy violations or training inadequacies **shall** be reported to the appropriate unit for resolution and/or discipline. There will be a regular review of use of force incidents by the appropriate Departmental authority to ascertain training and policy needs.

All use of force incident reports **shall** be retained as required by state law. An annual summary report of use of force incidents will be published and made available to the public.

TRAINING AND QUALIFICATIONS

An officer should not use a weapon, deadly or non-deadly, unless qualified in its proficient use as determined by training.

INITIAL INSTRUCTION ON DEADLY FORCE AND FIREARMS USE

All newly appointed police officers will be provided instruction on the use of force, deadly force, and the use of firearms prior to issuance of a firearm or authorization to carry a firearm in the course of employment.

The instruction is based on the Policy #201 "Use of Force," the Policy #204 "Use of Force: Firearms" and related instructional material required by the POST Board for peace officer licensure.

Newly appointed officers will be required to pass a Department examination on the above cited policies and Instructional Material. In addition, they will be trained and qualified with Department firearms before being authorized to carry them in the course of employment.

CONTINUED INSTRUCTION ON DEADLY FORCE AND FIREARMS USE

All police officers will be provided with annual recurrent training in the use of force, deadly force, and the use of firearms. This training is based on regular firearms training/qualification (qualification periods may vary, but will never be less than once every six months), and the policies and Instructional Material cited in the previous section. Part of the training will consist of successfully passing a Department examination based upon firearms training and applicable policies. The examination may be given either in writing or by use of the Department's computer based training program.

USE OF FORCE TRAINING – RECORD KEEPING

The training coordinator is responsible for the maintenance of written records of the Department's compliance with the requirements of annual training in accordance with Minnesota State Statute 626.8452, Subd. 4.

MEDICAL CONSIDERATIONS

Once the scene is safe and as soon as practical whenever an individual is injured, or complains of injury, or requests medical attention, officers will: request medical assistance by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be

witnesses 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 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.)

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Persons 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 if appropriate.

By Order Of:



Chief of Police

208. VEHICLE OPERATION: GENERAL AND EMERGENCY



**RICHFIELD
POLICE
DEPARTMENT
POLICY**

Effective Date: 04/14/89
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Authority: Chief Jay Henthorne

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I. PURPOSE

The purpose of this Policy is to establish guidelines for general vehicle use and emergency operation of departmental vehicles.

II. POLICY

It is the policy of this Department that every employee operates department vehicles in the following manner:

- 1) Every employee **shall** operate the vehicle in a safe and courteous manner, in conformance with safe driving practices, and all traffic laws.
- 2) All emergency vehicle operations should be conducted in strict accordance with existing statutes. Officers engaged in emergency vehicle operations should utilize both audible (siren) and visual (emergency lights) emergency warning equipment in response to calls for assistance.
- 3) All personnel operating Departmental vehicles should exercise due regard for the safety of all persons.
- 4) No assignment will be of such importance, and no task should be expedited with such emphasis, that the principles of safety become secondary. There are no tasks in the department of such importance that they justify the reckless disregard for the safety of innocent persons including the officers.
- 5) Department personnel will be held accountable for the consequences of their reckless disregard for the safety of others.
- 6) The nature of an emergency call may not be used to justify operating a Department vehicle in violation of Department policies.

III. DEFINITIONS

The following definitions apply for the purpose expressed in this Policy:

EMERGENCY RESPONSE: A response which may be required in a situation in which the physical safety and well being of an individual is directly jeopardized; a "life and death" situation.

URGENT RESPONSE: A response which may be required in a situation in which personal injury is likely to occur if assistance is withheld or response is unnecessarily delayed. Included are those instances when a potentially dangerous assignment necessitates additional officers at the scene.

ROUTINE RESPONSE: A response to a situation which an emergency response or an urgent response is not appropriate.

CIVILIAN PERSONNEL: Any person, other than sworn departmental personnel, approved non-sworn departmental personnel, police interns, or approved civilian ride alongs.

III. PROCEDURE

General Vehicle Operation

Employees **shall** not use any Department vehicle without proper authorization. Departmental vehicles **shall** not be used for personal business or pleasure, or for transporting individuals not on Department business except with permission of command staff.

No employee **shall** operate a Departmental vehicle unless the employee has a valid operator's license.

Officers on duty shall not leave the city except when:

- Related to necessary performance of official police duty.
- Authorized/directed by their supervisor (they will advise their supervisor or commanding officer as to the time of departure and return, and the nature of the business).
- Officers in Special Assignments (traffic officers, DWI officers, K-9 etc.) shall seek approval from their immediate supervisor to participate in activities outside the city.
- Officers shall not self-deploy to critical incidents outside the city unless mutual aid has been requested by another agency and a Richfield Supervisor has approved it.
- Officers are encouraged to assist other agencies that are operating inside Richfield.

Employees of the Department assigned to operate a departmental vehicle **shall** be held accountable for the proper use of the vehicle.

Drivers **shall** observe all traffic regulations in respect to parking. If an emergency requires occupation of a restricted or prohibited area, vehicles should be parked in such a manner so as not to unnecessarily interfere with the movement of traffic. When the emergency has ceased to exist, the area **shall** be vacated immediately.

All employees' personal vehicles and all Department vehicles, marked and unmarked, while at City Hall should park in accordance with Department policies.

Except in the case of an emergency when it is necessary to leave the vehicle unattended and unoccupied, the operator should lock the ignition by removing the key, lock all doors, and close all windows.

Operators of Department vehicles should give the right-of-way to fire division apparatus, ambulances and other lifesaving equipment on emergency runs.

The following guidelines are consistent with POST standards, which permit officers to operate in exception to M.S.S. 169.48 to 169.65:

- 1) An officer may operate a squad without lights if the officer reasonably believes that doing so is necessary to investigate a suspected criminal situation and if existing traffic, road, and weather conditions are such that it can be done safely.
- 2) Operating without headlights is not permitted in the following situations:
 - a) On interstate highways.
 - b) At speeds greater than what is reasonable and prudent under existing weather, road, and traffic conditions.
 - c) Faster than the posted speed limit.
 - d) In situations where the officer is actively participating in a pursuit.
- 3) At the beginning of each tour of duty, officers assigned to marked Department vehicles **shall** carefully inspect the vehicle and its equipment to insure it is in serviceable condition and is not damaged.
- 4) If any defect or damage is discovered, the officer(s) **shall** report it verbally to their immediate supervisor who will then forward it to the section lieutenant. Any defect, damage, or loss reported after the vehicle has been inspected and placed into service shall be prima facie evidence that it

occurred during the tour of duty of the officer reporting same and said officer **shall** be held responsible.

Vehicle equipment **shall** not be changed, interchanged, altered or removed unless authorized by a division commander.

Except when required by standard police procedure, all persons **shall** wear occupant safety restraining devices while operating or riding in the front seat of a police vehicle in accordance with Minnesota State Statute 169.686 and Richfield City Policy.

Unmarked vehicles will not be used as emergency vehicles unless they are equipped with emergency lights and siren.

EMERGENCY VEHICLE OPERATION

When responding to an emergency assignment, the officer will not operate the vehicle at a speed or in a manner that interferes with the complete control of it at all times.

The officer will not proceed through intersections or traffic signals until the officer is sure that all other traffic has yielded the right-of-way. The basic rules of traffic safety will be adhered to at all times regardless of the nature of the assignment.

Civilian personnel, as defined in section III, should not accompany the officer to any call except if the civilian is a participant in the call being responded to.

1) Call Response Codes

Officers should use emergency warning equipment in accordance with applicable statutes and/or when specifically authorized to do so by a duty supervisor. Duty supervisors and/or communications personnel assigning officers to respond to calls for assistance should provide enough pertinent information so the officer can determine the seriousness of the situation and respond accordingly.

An officer should be prepared, at a later time, to articulate to a supervisor the reason for responding by a chosen code.

If the unit is unable to respond for any reason, the communications center should be immediately notified and the officer should be prepared to articulate to the commanding officer/duty supervisor the reason for the inability to respond to the call.

Response codes should be designated as follows:

- a) Code One - [Routine Response]: Officer is to respond to call as soon as reasonably possible. Reasonable delays would include enforcement action for serious traffic violations, hazardous vehicle stalls in the roadway or intervening assigned activities.
- b) Code Two - [Urgent Response]: Officer is to respond to call without delay, proceeding directly to the location while operating the vehicle with due regard for the safety of all persons. Officers should be aware of Minnesota Statute 169.03 on the operation of emergency vehicles.
- c) Code Three - [Emergency Response]: Officer is to respond to call immediately, proceeding directly to the location as quickly as reasonably possible, while operating the vehicle with due regard for the safety of all persons, utilizing emergency equipment.

Response Codes Two and Three should be used for the following types of calls:

- Officer in trouble;
- Felony in progress;
- Assaults in progress;
- Accidents, fires, or injuries where human life may be in jeopardy;
- Alarm calls;
- Medical emergencies;
- Others as the department may provide.

The commanding officer or duty supervisor may order an officer to use a different response code if deemed to be necessary under the circumstances.

2) **Response Procedures**

The following procedures should be followed in responding to calls for assistance.

a) **Communications Center Responsibilities**

- Receive and record all incoming information on the call for assistance.
- Dispatch field personnel and when appropriate immediately notify the commanding officer and/or duty supervisor of action taken.
- Perform relevant record and motor vehicle checks, if appropriate.
- Control all radio communications during the incident.
- Coordinate assistance under the direction of the duty supervisor.
- Continue to monitor the situation until it has stabilized or terminated.

b) **Initiating/Primary Response Unit Responsibilities**

Initiating requests for assistance. When an officer in the field is involved in a situation where help is needed, the officer must be aware that a nonspecific request will result in an uncoordinated response. This may be a greater hazard to life and property than the originating incident. Whenever possible the officer must minimize this hazard by giving the following information:

- Unit number;
- Exact location;
- Reason for the request;
- Specify the response code for the assisting units;
- Number of units required to handle situation.

The officer making the request should, to the extent practicable, insure that the call has been received by the communications center. Additionally, the officer should provide status reports, coordinate the efforts of arriving units, and confirm that adequate assistance actually arrives.

Primary response units should identify themselves and if any units are responding Code 3, they should state their location. Primary response units should proceed to the specified location in accordance with the response code. Primary response units should immediately notify the communications center upon arrival at the scene and provide a status report as soon as possible.

Upon receipt of a termination notice, responding units should discontinue emergency operation and return to their assigned area unless specifically requested to continue to the location under normal driving conditions.

c) **Supervisory Responsibilities**

The duty supervisor, if notified or learns of a request for emergency assistance, should monitor officer responses and if it is appropriate, reclassify the response if a different response code is called for.

The duty supervisor should monitor the response until it has stabilized or terminated, and assert control by directing specific units into or out of the response if necessary.

Upon being notified that an emergency response has been initiated, the duty supervisor should verify the following:

- Officers are responding according to the proper response classification.
- No more than the required or necessary units are involved in the response.
- Affected allied agencies are being notified.

By Order Of:



Chief of Police



203. USE OF FORCE: CONDUCTED ELECTRICAL WEAPON (CEW)



**RICHFIELD
POLICE
DEPARTMENT
POLICY**

Effective Date: 11/15/06
No. of Pages: 4
Serial Number: 10-103
Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this Policy is to provide guidelines and direction for the effective use of the Taser X26. It will also establish procedures for reporting requirements, and required medical treatment.

II. POLICY

It is the policy of this Department to use only the level of force that reasonably appears necessary to control or otherwise subdue an individual. Taser X26 is to be used in accordance with Policy #201 "Use of Force."

Officers who have been certified shall display and use the Taser X26 only as permitted by the Department, and said device shall not be displayed or used except in the course of official police duties.

When the Taser X26 is used, it is the responsibility of officer(s) at the scene to ensure first aid is provided to the subject who received the electronic impulse(s) of the Taser.

III. DEFINITIONS

TASER X26: A fourth generation "conducted electrical weapon (CEW)," designed by the manufacturer to disrupt a subject's central nervous system by deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override voluntary responses.

STATUTORY AUTHORITY: Taser use is authorized by Minnesota State Statute for use by police officers. See M.S.S. 624.731, subd. 6.

IV. PROCEDURE

DEPARTMENT AUTHORIZATION

Qualified sworn personnel, who have satisfactorily completed Department training will carry and be authorized to use the Department approved Taser X26 model, "yellow" in color, as part of their police equipment.

Officers that carry the device are required to successfully recertify with a Taser instructor on an annual basis. Annual recertification consists of:

- Firing at least two live cartridges.
- A device data upload.
- Reviewing the "Annual CEW User Update" PowerPoint presentation.
- Reviewing current law enforcement warnings/any applicable changes to CEW policy/procedure.

The Taser X26 is just one of the tools available to officers in dealing with actively resisting persons when some level of force is justified. Annual training on the use of Taser X26 will familiarize officers with the advantages, disadvantages and considerations in using the Taser.

The Taser X26 will be carried in an approved holster on the side of the body opposite the service handgun.

Officers not assigned to uniformed patrol may utilize other Department approved holsters and carry the weapon consistent with Department training.

Officers authorized to use the device shall be issued a Taser X26, battery and one air cartridge, which will be secured in a weapon firing position inside the issued holster. Spare cartridges will be kept and stored in a designated place consistent with Department training.

All officers carrying the Taser X26, will ensure that the Taser is functioning properly by performing a spark test prior to the start of their shift. Officers must notify a supervisor if there are any problems encountered with the Taser.

AUTHORIZED USE

The Taser X26 is designed as a non-lethal weapon and maybe used as an alternative to physical force and when the officer believes that a lower use of force would expose the officer or others to physical injury.

The Taser X26 is authorized when officers are faced with individuals who are actively resisting. The Taser X26 is also authorized to subdue animals for the purpose of animal control.

PROCEDURES FOR USE

As with any use of force technique, when possible, officers should:

- 1) Use verbal commands and announce the intended use of the Taser to the subject, if tactically warranted.
- 2) Announce the presence of, and intended use of the Taser over the radio for officers present at the scene and responding officers know that a Taser is being deployed so they don't mistake the sight and noise from the Taser going off as a firearm discharge.
- 3) Request a supervisor and back-up officers as soon as it is feasible to aid in dealing with the subject(s), and medical needs, bystanders, witnesses and scene management.
- 4) A supervisor must respond to the scene in all situations in which the Taser X26 was activated against a subject.
- 5) Aim for the center back (primary target) of the subject with the laser sight and press trigger switch to deploy the probes. The chest and lower body (secondary target) may be the only available target area and if the subject is wearing heavy clothing. The Taser shall not be intentionally aimed at the head, neck or genitalia areas.
- 6) No more than one officer should activate the Taser X26 against a subject.
- 7) After the subject becomes incapacitated, backup officers shall approach and restrain the subject with handcuffs.
- 8) If the subject is not incapacitated after the initial application, additional applications may be delivered as required to bring the subject under control. *(Multiple applications of the Taser X26, should not exceed a combine total of 15 to 20 seconds. Any additional exposure may increase the risk to the subject and should be avoided when practical. If the Taser X26 hasn't worked in achieving control after the 15 to 20 seconds, the officer should reassess and consider another force option or disengagement. On the other hand, continuous cycling may be very prudent choice when the apparent alternative is escalation to force, likely to result in serious injury or death.)*
- 9) If the probes miss, or if the officer is attacked from behind, or if there are multiple subjects, the Taser may be used as a stun gun (with the air cartridge removed.)

UNAUTHORIZED USE

Tasers shall not be used in the following situations:

- 1) If the subject is near a drop-off, ledge, roof, stair, precipice, swimming pool, or significant body of water where, if the subject were to fall after Tasing, there would be a substantial likelihood of great bodily harm or death, unless the provisions for use of deadly force exist.

- 2) In a punitive manner, or on a subject who is effectively restrained posing no additional threat to officers;
- 3) In the presence of flammable liquids or fumes.
- 4) Shall not be used against suspects in physical control of a vehicle in motion to include automobiles, trucks, motorcycles, ATV's, bicycles unless exigent circumstances exist.
- 5) The device is not to be used to address disruptive behavior.
- 6) The device should not be intentionally discharged to the head, breast, neck or genitalia area.
- 7) The device should not be used to escort or prod individuals, or used on handcuffed subjects.
- 8) The frivolous display and use of the Taser is prohibited.

As in all use of force situations, certain individuals may be more susceptible to injury. Officers need to be aware of the greater potential for injury when using the Taser X26 against children, the elderly, persons of small stature irrespective of age, or those who the officer has reason to believe are pregnant, equipped with a pacemaker or in obvious ill health.

The Taser X26, should not be used on the following types of people, except in situations where the Taser X26 would be a better alternative than the use of deadly force:

- 1) If the subject is obviously, or know to be pregnant;
- 2) If the subject appears to be visibly frail;
- 3) Young children

SAFETY OF SUBJECTS

Following any discharge of the Taser X26, to the extent reasonably practicable under the circumstances, the involved officer shall be alert to the apparent well being of the subject immobilized or incapacitated by the discharge.

The officer will photograph the site, remove the probes and photograph the area where impact occurred.

After removing the probes, the officers or on-site medical assistance, shall provide first-aid by applying an antiseptic to the probe sites as needed. Officer should inspect the probes after removal to ensure the entire probe and probe barb has been removed. In the event that a probe or probe barb has broken off, the subject should be provided with the appropriate medical attention to facilitate the removal of the object.

Once the probes have been removed, they should be placed inside the spent cartridge and treated as a biohazard. The probes, spent cartridge, wires and as many affids as possible, will be collected as evidence.

If the probes become attached in a sensitive area, such as the head, throat, breasts, or groin areas, or should other circumstances reasonably dictate the practicality of a medical response, the subject shall be provided with the appropriate medical attention.

In any case, where the subject makes an affirmative complaint of injury from the discharge, the subject shall be provided with the appropriate medical attention.

REPORTING USE OF THE TASER X26

Every officer that has been assigned the Taser X26, will download the data to their assigned Taser in accordance with Department procedures. The data can be downloaded by connecting a USB to the Taser and opening up the Taser Program and following the Taser program instructions.

The Taser data will be downloaded as follows:

- 1) When the Taser is discharged.
- 2) During annual Taser X26 recertification.

Each time an officer threatens and/or discharges a subject to the Taser X26, the officer shall file a written police report and *Special Incident Review*. In cases where the Taser was discharged, the officer must notify their immediate supervisor. The supervisor shall complete a "Taser Use Report" and attach it to the *Special Incident Review*. This requirement does not include periodic testing of the unit for functionality purposes.

The report shall include in the narrative a description of all facts and circumstances surrounding the discharge of the Taser. For example; justification for its use, justification of multiple deployments to include the number and duration of discharges administered to subject, along with where the probes struck, any injuries or claims of injuries, and first aid administered.

Anytime an officer accidentally discharges the Taser, the officer must notify their supervisor of the situation and the officer's supervisor must complete the "Taser Use Report."

No modifications to said device shall be made without express permission of the Chief of Police.

SECURITY OF TASERS

Unattended Tasers should be locked up or otherwise secured. Tasers left unattended in unlocked offices, unlocked lockers and other areas generally accessible by non-sworn personnel are not considered secure.

Officers are encouraged to leave their Taser secured at the station while not on duty. Officers who take their Taser home are responsible for its security. Officers should take precautions such as securing Taser in a locked cabinet to prevent unauthorized or accidental use.

TRAINING

Pursuant to MSS 626.8452, officers will receive annual Use of Force training and instruction relative to weapons and equipment the officer is issued and/or authorized to use.

By Order Of:



Chief of Police

205. USE OF FORCE: CHEMICAL AEROSOLS



**RICHFIELD
POLICE
DEPARTMENT
POLICY**

Effective Date: 03/22/94
No. of Pages: 2
Serial Number: 10-105
Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this Policy is to provide guidelines for the effective use of chemical aerosols. It will also explain procedures for providing first aid and decontaminating persons who have been sprayed with a chemical aerosol.

II. POLICY

Chemical aerosols are to be used in accordance with Department Policy #201 "Use of Force." When a chemical aerosol is used it is the responsibility of officers at the scene to provide first aid to all contaminated persons.

III. PROCEDURE

Chemical aerosols are just one of the tools available to officers in dealing with actively resisting persons. Annual training on the use of chemicals will familiarize officers with the advantages, disadvantages and considerations in using chemicals.

Only chemical aerosols issued by the Department are approved for use. It is recommended that the chemical be carried on the weak hand side of the utility belt.

Chemical aerosols have a range up to ten feet in distance. Chemical aerosols will be more accurate the closer the subject is to an officer.

The spray is a concentrated stream which should not affect other persons in the area of the target if others are not directly contacted by the chemical. However, in a closed area the chemical aerosol can affect others when the particles are inhaled. Therefore, officers should consider the presence of bystanders before using a chemical aerosol.

The most effective target area when dispersing a chemical aerosol is the eyes. This will have the fastest and most effective controlling potential in most circumstances. Any lachrymal glands, such as the nose and mouth, will also be affected quickly by chemicals.

As with any use of force technique, when possible, officers should use verbal commands before or in conjunction with the dispersal of a chemical aerosol. Clear, concise commands should be given to subjects, i.e. "Stop, turn around, and put your hands on top of your head or I will spray you with mace."

Note: The term mace is used as a universal word which most people will understand.

Chemical aerosols may not be effective on all persons. Mentally ill and/or persons under the influence of a controlled substance or persons under the influence of controlled substances may not be affected by chemical aerosols.

The effects of a chemical aerosol will vary from person to person. Officers should always be aware of unusual reactions to chemical aerosols. If a person demands medical attention or the officer detects an unusual or severe reaction to the chemical aerosol, seek medical assistance for the person immediately by requesting Richfield Rescue, Hennepin County Ambulance.

Officers should be aware of common reactions to chemical aerosols. Chemical aerosols are most effective when the chemical is used on the facial area. When the face is contaminated there are common reactions to:

- 1) Burning sensation of the eyes and skin;
- 2) Respiratory discomfort;
- 3) Coughing;
- 4) Mucus drainage from nose.

There are several decontamination procedures for chemical aerosols that officers should perform as soon as possible after the incident is under control:

- 1) Remove the contaminated person to an uncontaminated area;
- 2) Take the person to a ventilated area, preferably outside and facing into the wind;
- 3) Run water over the contaminated area of the person;
- 4) Reassure the person the effects will be reduced by the actions you are taking.

At times it may be possible to use a water supply at the scene to begin decontamination. Richfield Rescue personnel also have water available.

In order to avoid re-contaminating the person, all outer clothing should be removed. A supply of disposable coveralls is kept in the booking room cabinets for use by prisoners. Contaminated clothes should be placed in a plastic bag and clearly marked, "Contaminated -- Chemical Aerosol."

Pursuant to MSS626.8452, officers will receive annual Use of Force training and instruction relative to weapons and equipment the officer is issued and/or authorized to use.

By Order Of:



Chief of Police

204. USE OF FORCE: FIREARMS



RICHFIELD POLICE DEPARTMENT POLICY

Effective Date: 10/05/92
No. of Pages: 6
Serial Number: 10-104
Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this Policy is to provide direction in the proper use of firearms and to establish firearms training and certification standards for the Department.

II. POLICY

Police officers are vested with the authority to use firearms in situations where the use of deadly force is authorized to control a situation. Because of the potential for criminal and civil liability in the indiscriminate use of firearms, the Department will maintain strict firearms regulations and training requirements. Officers will be required to show proficiency on a regular basis with firearms they normally carry.

III. DEFINITIONS

DUTY FIREARM: Department authorized firearm(s) or any other weapon(s) expressly approved by the Chief or Deputy Chief for use while on duty.

SECOND FIREARM: Any firearm carried by an officer while on duty in addition to the duty firearm and approved by the CHIEF or Deputy Chief for use while on duty.

OFF DUTY FIREARM: Any firearm carried by an officer while off duty, excluding guns used exclusively for recreational purposes.

IV. PROCEDURE

AUTHORIZED CARRYING OF FIREARMS

While on duty, police officers **shall** carry only firearms and ammunition authorized by the Department as duty firearms or second firearms.

Authorized Duty, Second, and Off Duty firearms carried under the authority granted by status as an active law enforcement officer are those with which the police officer has qualified and received Departmental training on proper and safe usage, and that are registered with the Department and comply with Departmental specifications.

The only firearm(s) that **shall** be carried on duty is (are) the Department authorized Duty firearm(s) or authorized second firearm(s).

While on duty, officers of the Department should not arm themselves with machine guns, tear gas guns, or other weapons unless so ordered by a superior officer or Department order.

1) Carrying a Firearm off Duty under the authority granted by status as an active law enforcement officer.

Officers carrying firearms while off duty and out of uniform **shall** carry their identification card and badge and carry the firearm away from public view.

No officer shall carry an off duty firearm under the authority granted by status as an active law enforcement officer without written authorization from the Chief or Deputy Chief.

To obtain approval to carry a second or off duty firearm, under the authority granted by status as an active law enforcement officer, an officer must complete the *Handgun Authorization Request* form and submit it and the firearm to the Deputy Chief.

If the Deputy Chief approves the firearm, the requesting officer must complete the Department qualification course for off duty/back up weapons. Once the officer has qualified with the firearm the "Off Duty/Back-up Gun Qualification Record" shall be completed.

The completed Qualification Record and Handgun Authorization Request form should be submitted to the Deputy Chief for final approval. The officer will be notified in writing if the handgun has been authorized.

A copy of the *Handgun Authorization Request* form will be placed in the officer's personnel file.

AUTHORIZED USE OF A FIREARM

Firearms **shall** only be discharged in situations that warrant the use of deadly force as defined in Policy #201 "Use of Force," except during training, to destroy an animal that represents a threat to public safety or as a humanitarian measure to destroy an animal that is seriously injured.

Before using a firearm in a deadly force situation, police officers shall make every reasonable attempt to identify themselves as police officers and state their intent to shoot.

Firearms **shall** not be discharged when it appears likely that an innocent person may be injured.

Officers **shall** not fire warning shots.

Except for maintenance or during training, police officers should not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon.

1) Shooting at a Moving Vehicle

Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. For the purposes of this Policy, the moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Officers shall not intentionally place themselves in the path of a moving vehicle.

2) Shooting from a Moving Vehicle

Firearms shall not be discharged from a moving vehicle except in exigent circumstances and in the immediate defense of life.

It is understood that this Policy may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgment, attending to the spirit of this Policy. Any deviations from the provisions of this Policy shall be examined rigorously on a case by case basis. The involved officer must be able to articulate clearly the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of avoiding that peril.

WEAPON SELECTION

When faced with the decision of using a shotgun, squad rifle or a handgun in a deadly force situation, a number of factors must be considered. Projectiles from these weapons can be fatal well beyond the area of the immediate threat. For example, the standard buckshot load will spread approximately one inch per yard of travel. Extreme caution is required when using the shotgun for shots over 15 yards (15 inch spread) because of the potential for hitting bystanders. Other factors that should be considered when selecting a weapon are:

- a) The number of suspects and weaponry to be faced.
- b) The physical environment and the potential for projectile ricochet or penetration.
- c) The officer's proficiency and comfort level with each weapon in a given situation.
- d) The presence and deployment of assisting officers.
- e) The maximum range and maximum effective range of each weapon.

All information provided in the following chart is intended only as a guide to assist in making weapon selection decisions. The ballistic information is not to be relied upon as absolute. Many variables exist which can significantly alter both effective and maximum range. The ranges presented here should be treated as rough approximations.

BALLISTIC CHART

Weapon	Effective Range	Maximum Range	Notes
Shotgun -.00 buck shot	25 yards	650 yards - Can be lethal up to 200 yards.	The standard buckshot load will spread approximately one inch per yard of travel. Extreme caution is required when using the shotgun for shots over 15 yards (15 inch spread)
Glock 21 - .45 Caliber	50 yards*	Approximately 1 mile	*With a high level of proficiency and a carefully aimed shot
AR-15 -.223 caliber	600 yards*	2.2 miles	*with a high level of proficiency and a carefully aimed shot

Note: The effective range of a weapon is more dependent on training and ability than anything else. Approximately 80% of shots fired by police officers in real shootings miss the target. Distances to target are less than 21 feet in about 90% of the cases.

MAINTENANCE AND INSPECTION OF FIREARMS

1) Weapon/Ammunition Maintenance

Firearms should always be kept clean, oiled, and in working order. It is the responsibility officers to report any defect to their superior so that repairs can be made. New service ammunition should be issued at least once every two years. "Old" ammunition should be turned over to a range officer. Officers are responsible for making sure the service ammunition for their duty firearm is replaced every two years.

2) Authorized Ammunition

Only Department authorized ammunition **shall** be used in firearms carried by officers as their duty firearm or second firearm. Appropriate standard factory ammunition **shall** be carried in off-duty firearms.

3) Alteration of Firearms

No employee **shall** alter the Department issued duty firearm without the written approval of the Chief or a Deputy Chief.

Modifications made to previously approved second and off duty firearms must be approved by a Deputy Chief before the modified firearm may be carried. The Deputy Chief may require the officer to re-qualify with the modified weapon.

4) Shotguns

Before each shift, officers shall ensure that the shotgun is squad ready. The shotgun will be presumed to be squad ready if properly taped and dated per standard range practice. Squad ready procedures are as follows:

- 1) Chamber empty.
- 2) Slide forward.
- 3) Pull trigger.
- 4) Tape the slide with non-adhesive tape.
- 5) The safety is off.

The safety is off. If a shotgun is "charged" in the field, safely clear the weapon and return to "squad ready" as soon as possible.

Note: When "squad ready" The slide release button should be down and flush with the front of the trigger guard. (If this button is up, the gun is cocked and ready to fire. The safety should be put on immediately before removing it.)

A shotgun should be removed from the squad, maintained, and retaped with the date every 30 days or as close there to as practical. Any maintenance problems should be reported to the duty supervisor and the weapons should be removed from service until repaired.

5) Squad Rifles

Before each shift, officers should ensure that the AR-15 is squad ready. Squad ready procedures are as follows:

- 1) Chamber is empty
- 2) Bolt is forward.
- 3) The selector lever is on "safe" (do not pull the trigger. If you do, the safety will not go on).
- 4) Insert a magazine. Ensure the magazine is fully seated.

If the AR-15 is "charged" in the field, safely clear the weapon and return to "squad ready" as soon as possible.

The AR-15 should be removed from the squad and maintained following the posted weapon inspection schedule. . Any maintenance problems should be noted on the inspection log and reported to the duty supervisor, the weapon(s) should be removed from service until repaired.

SECURITY OF FIREARMS

Unattended firearms should be locked up or otherwise secured. Firearms left unattended in unlocked offices, unlocked lockers and other areas generally accessible by non-sworn personnel are not considered secure.

Officers are encouraged to leave their Department issued firearm(s) secured at the station while not on duty. Officers who take any Department issued firearm home are responsible for its security. A conviction under Minnesota Statute 609.666 concerning the negligent storage of firearms could lead to the loss of an officer's POST license.

Officers who have an unmarked take-home vehicle **shall** ensure that their Department issued squad rifle is unloaded and secured in the Richfield Police armory and/or their residence at the conclusion of

their shift unless their vehicle is parked inside a secure residential style garage. In these circumstances, the squad rifle may be left inside the vehicle in a secure weapons vault or locking rack.

TRAINING AND CERTIFICATION

Every officer is required to pass a firearms qualification test on a regular basis. Changes in qualification standards must be approved by a member of the command staff. Each officer must qualify with the Department issued duty firearm and any second and off-duty firearms that are carried. The basic firearms qualification period is once every three months for duty and back-up firearms. The basic firearms qualification period for off duty firearms is annually. Different units within the Department may have additional qualification requirements. Firearms qualification standards should meet all POST requirements

Officers will be notified in advance of the official periods of qualification with duty firearms and will be given the necessary training and opportunity so that they may qualify. Officers who miss the qualification deadline or fail to receive a passing score with their duty weapons will be subject to temporary reassignment to non-enforcement duties until successful completion of qualification and/or progressive discipline.

A police officer who has taken extended leave or suffered an illness or injury that could affect his or her use of firearms will be required to re-qualify before returning to enforcement duties.

1) Use of the Range

Use of the range is limited to Richfield police officers and persons or organizations that have specific approval of the Chief or Deputy Chief. For training purposes Richfield police officers may use the range without the presence of a range officer. They must notify the duty supervisor prior to use. All others will be required to have a range officer present. Additionally, officers using the range without the presence of a range officer must notify Dispatch before training begins and immediately after training is completed. The range may be used any time of the day, but is contingent upon the duty supervisor's approval. For those that must have a range officer present, a list of all current range officers will be posted in the range.

Only the following weapons may be used in the range:

- a) Firearms with ballistic characteristics less than or equal to .308 Winchester/7.62X51mm.
- b) Department issued duty firearms
- c) Approved second or off duty firearm
- d) MP-5
- e) Shotgun (no slugs)
- f) AR-15

Ball and hollow point ammunition may be used on the range. Under no circumstances are the following types of ammunition to be used on the range:

1. Armorpiercing (greentip, penetrator, etc.)
2. TRACER.
3. Other DESTRUCTIVE ammunition.
4. Shotgun slug ammunition (Slug, Sabot, rifled, etc.)

Weapons not listed above should not be used in the range. .

REPORTING REQUIREMENTS

Officers **shall** report any discharge of firearms, except in the case of firearm training, which occurs while the officer is on duty.

A supervisor should be immediately summoned to the scene when a firearm is discharged outside the range by an officer while on duty, other than during authorized firearms training

Incidents involving the discharge of firearms by personnel of this Department (excluding authorized firearms training) will be thoroughly investigated to determine whether the use of firearms was justified under the circumstances.

Detailed written reports should be submitted by the officer and shift supervisor, through the established chain of command, to the Chief of Police regarding any shooting incident.

The officer's written report should be submitted prior to the end of the officer's shift unless directed otherwise by a supervisor.

An officer involved in a firearm discharge that results in an intentional or accidental injury or death of any individual will immediately be placed on administrative leave with pay until the investigation of the incident is complete or permission to return to duty is granted by the Chief of Police.

An officer involved in any other deliberate or accidental firearm discharge may be put on administrative leave at the discretion of a supervisor.

By Order Of:



Chief of Police



202. USE OF FORCE – LESS LETHAL MUNITIONS



**RICHFIELD
POLICE
DEPARTMENT
POLICY**

Effective Date: 01/29/01
No. of Pages: 3
Serial Number: 10-102
Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

This Policy is intended to provide officers of the Richfield Police Department with guidelines regarding the use of less than lethal force in deadly and non-deadly force situations.

II. POLICY

This Department recognizes and respects the value of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interests is required. Therefore, it is the policy of the Department that police officers use the minimum force that is reasonably necessary to effectively bring an incident under control, while protecting the life of the officer and/or another.

This Department complies with Minnesota State Statute 626.8452, "Deadly Force and Firearms Use; Policies and Instruction Required." Annual training will be provided to officers in compliance with this statute.

III. DEFINITIONS

The following definitions apply for the purpose expressed in this Policy:

DEADLY FORCE: Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury. Deadly Force is defined in Minn. Stat. 609.066 Subd. 1., "For the purposes of this section, "deadly force" means 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, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. "Less lethal munitions" means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person. "Peace officer" has the meaning given in section Minn. Stat. 626.84, Subd. 1."

LESS LETHAL MUNITIONS: means projectiles, which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person.

NONDEADLY FORCE: Any use of force other than that which is considered deadly force.

PFIREARM: "A device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion or force of combustion." (State Statute 609.666 Subd. 1a.)

DANGEROUS WEAPON: Any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, any combustible or flammable liquid or other device or instrumentality that, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm.

IV. PROCEDURE

PARAMETERS FOR USE OF LESS-LETHAL MUNITIONS IN NON-DEADLY FORCE & DEADLY FORCE SITUATIONS

Authorized Use of Force by Peace Officers

The following is taken from Minn. Stat. 609.066, Subdivision. 2:

Subd. 2. Use of deadly force. Notwithstanding the provisions of section 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when necessary:

- 1) *To protect the peace officer or another from apparent death or great bodily harm;*
- 2) *To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or who has reasonable grounds to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or*
- 3) *To effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.*

Less-Lethal Munitions can be used in Deadly Force situations. In addition, the Department allows for the use of Less-Lethal Munitions in Non-Deadly Force Situations in which a Dangerous Weapon is used or threatened to be used in an aggressive/assaultive manner toward an officer or the public.

This is best explained in the following example:

- 1) Where a subject has officers at bay and threatening the use of a dangerous weapon against his/her self, the public or an officer. The subject has not gone beyond the threshold where the officer determines deadly force is justified.
- 2) As in any use of force situation, the officer must examine the situation and determine what force is "objectively reasonable" for the particular situation. The officer must decide what force is objectively reasonable while considering:
 - a) Severity of the crime;
 - b) Whether the suspect poses an immediate threat to the safety of the officers or others;
 - c) Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

LESS LETHAL WEAPON

The Department issued 12 gauge shotguns, designated for the sole purpose of delivering "less lethal" projectile, will be stored within a case and supplied with "less lethal" projectiles only.

At no time shall any member of the Richfield Police Department load or allow to be loaded into the dedicated "less lethal" weapons, any projectiles other than "less lethal." The "less lethal" 12-gauge shotgun is not to be considered as a rapid deployment option. Officer/public safety is of ultimate concern. Once safety is established, officers at the scene may consider the "less lethal" shotgun as an option.

All officers will receive proper training on the use of the "less lethal" shotgun prior to any usage.

REPORTING REQUIREMENTS

Officers shall report any deliberate or accidental discharge of firearms, except in the case of routine training.

A supervisor should be immediately summoned to the scene when a firearm is discharged outside the range.

Incident report and Special Incident Review form shall be completed when incidents involving the discharge of firearms by personnel of this Department (excluding authorized firearms training) will be thoroughly investigated to determine whether the use of firearms was justified under the circumstances.

Incident report and Special Incident Review form **shall** be submitted by the officer and shift supervisor, through the established chain of command, to the Chief of Police regarding any shooting incident.

The reporting will follow the guidelines set forth in Department Policy #138 *Special Incident Review*.

An officer involved in a firearm discharge that results in an intentional or accidental injury or death of any individual will be put on immediate administrative leave with pay until the investigation of the incident is complete or permission to return to duty is granted by the Chief.

An exception to this will be made for the officer who discharges a "less lethal" projectile, causing minor injury to the individual. The officer will not be subject to immediate administrative leave; discretion will be used in individual instances.

An officer involved in any other deliberate or accidental firearm discharge may be put on administrative leave at the discretion of a supervisor.

TRAINING

Pursuant to MSS 626.8452, officers will receive annual Use of Force training and instruction relative to weapons and equipment the officer is issued and/or authorized to use.

By Order Of:



Chief of Police



209. EMERGENCY VEHICLE OPERATION: PURSUIT



**RICHFIELD
POLICE
DEPARTMENT
POLICY**

Effective Date: 04/15/89
No. of Pages: 7
Serial Number: 10-109
Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

Vehicle pursuits are necessary to apprehend actual or suspected law violators who refuse to voluntarily comply with a request to stop. In addition, they are necessary to deter others from violating the law. Because vehicle pursuits may be dangerous, however, restrictions must be placed on their use.

Further, officers must carefully exercise their discretion to initiate, conduct, and continue a pursuit. This discretion necessarily involves the consideration of complex and unpredictable factors.

This Policy provides restrictions on the use of vehicle pursuits and guidelines for officers in the exercise of their permitted discretion.

II. POLICY

It is the policy of this Department that when operating an emergency vehicle in pursuit, the officer **shall** always weigh the risks involved against the nature of the offense which caused the pursuit. Pursuit **shall** be terminated when the risks of pursuit outweigh the desirability of apprehension.

All emergency vehicle operations **shall** be conducted in strict accordance with existing statutes. Officers engaged in emergency vehicle operations should utilize both audible (siren) and visual (emergency lights) emergency warning equipment when engaged in pursuit.

All personnel operating departmental vehicles **shall** exercise due regard for the safety of all persons. No assignment should be of such importance, and no task should be expedited with such emphasis, that the principles of safety become secondary. There are no tasks in the Department of such importance that they justify the reckless disregard of the safety of innocent persons.

Departmental personnel will be held accountable for the consequences of their disregard for the safety of others.

It is understood that this Policy may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgment, attending to the spirit of this Policy. Any deviations from the provisions of this Policy shall be examined rigorously on a case by case basis. The involved officer must be able to articulate clearly the reason(s) for the pursuit. These reasons must comply with the standards and guidelines set forth in this Policy.

III. DEFINITIONS

The following definitions apply for the purpose expressed in this Policy:

PURSUIT: An active attempt by one or more police officers to apprehend a suspect operating a motor vehicle, while the suspect is trying to avoid capture by using high speed driving or other evasive tactics, or maintaining legal speed but willfully failing to yield to the officer's signal to stop.

SERIOUS FELONY: A felony that involves an actual or threatened attack which the officer has reasonable cause to believe could result or has resulted in death or serious bodily injury.

[Refer to Minn. Statute 609.066]. Homicide, 1st and 2nd degree assault, aggravated robbery, sexual assault involving the use of threatened use of a dangerous weapon, kidnapping.

ROADBLOCK: Any method, restriction, or obstruction utilized or intended for the purpose of preventing free passage of motor vehicles on a highway in order to affect the apprehension of an actual or suspected violator in a motor vehicle.

PRIMARY PURSUING UNIT: The police unit that initiates a pursuit or any unit that assumes control of the pursuit.

CIVILIAN PERSONNEL: All non-sworn police personnel.

III. PROCEDURE

Pursuit is justified only when the officer knows or has reasonable grounds to believe the suspect presents a clear and immediate threat to the safety of other motorists; has committed or is attempting to commit a serious felony; or when the necessity of immediate apprehension outweighs the level of danger created by the pursuit.

Sworn police personnel are the only Department personnel that may engage in a pursuit at any time. No civilians are permitted to ride in a police vehicle during a pursuit.

INITIATING/PRIMARY UNIT RESPONSIBILITIES

The responsibility for the decision to initiate a pursuit and continue a pursuit rests with the individual officer. The officer initiating a pursuit **shall** notify the communications center as soon as reasonably possible that a pursuit is underway.

The initiating officer shall immediately state their unit identification and the specific reason for the pursuit, including known laws violated. In addition, the initiating officer shall provide the communications center with the following information:

- 1) Location, speed, and direction of travel;
- 2) Vehicle description, including license number, if known;
- 3) Number of occupants and their description(s)

Failure to provide the above information the commanding officer/duty supervisor to order termination of the pursuit. In addition, it is the initiating/primary unit's responsibility to establish and maintain communication related to suspect driving conduct, traffic conditions, other clear and articulated facts that would warrant the increased hazard with the Richfield on-duty supervisor.

The initiating or primary unit should be in field command, and bears operational responsibility for the pursuit unless relieved by a supervisor. The authority of the primary unit pertains to the immediate field operation and is, at all times, subordinate to the command of the duty supervisor and commanding officer.

The primary unit may maintain pursuit as long as it is prudent to do so, or until directed to terminate the pursuit by a supervisor, or the suspect is stopped.

The decision to terminate pursuit may be the most intelligent course of action. Officers must continually question whether the seriousness of the crime justifies continuing the pursuit.

ASSISTING UNIT RESPONSIBILITY

Assistance should be coordinated by the communications center under the direction of the commanding officer or the duty supervisor. The duty supervisor and primary unit should be advised of the identity and location of backup units who can assist.

The active pursuit should normally involve not more than two units from any agency: the primary unit and one backup unit. If more assistance is specifically requested, the amount should be determined by:

- 1) Nature of the offense;
- 2) Number of suspects;
- 3) Whether the participating units have more than one officer;

Only the commanding officer or duty supervisor may authorize more than two units to be in active pursuit. All other units should remain aware of the direction and progress of the pursuit but should not actively participate, and should not respond or parallel the pursuit on adjacent streets unless

specifically authorized to do so. Units not assigned to the pursuit should refrain from requesting or asking for additional resources unless authorized by supervisor to do so.

The assisting unit, upon joining the pursuit, **shall** immediately notify the communications center of its identity.

If the primary unit is a one-man unit, the assisting unit may assume radio communications responsibility, allowing the primary unit to devote full attention to driving.

The assisting unit should maintain a safe distance behind the primary unit, but be close enough to render backup assistance if and when required. Assisting units should, at all costs, avoid intersecting the path of an oncoming high-speed vehicle.

If the primary unit becomes disabled, the assisting unit should become the primary unit. The communications center should advise the duty supervisor and other units that a new backup unit is needed, and the next unit to join the pursuit should be designated the backup unit.

TERMINATION OF PURSUIT

A pursuit shall be terminated under any of the following circumstances:

- 1) If, in the opinion of the pursuing officer, the commanding officer or the duty supervisor, there is a clear and unreasonable danger to the officer and other users of the highway created by the pursuit that outweighs the necessity for immediate apprehension.
- 2) The suspect's identity has been established to the point that later apprehension can be accomplished, and there is no longer any need for immediate apprehension.
- 3) The prevailing traffic, roadway, and environmental conditions indicate the futility of continued pursuit. Risks due to weather, road conditions, vehicle and/or pedestrian traffic outweigh the necessity to immediately arrest the suspect, regardless of the time of day.
- 4) The pursued vehicle's location is no longer known.
- 5) The pursuing officer knows, or is reasonably certain, that the fleeing vehicle is operated by a juvenile and the offense constitutes a misdemeanor or a non-serious felony and the safety factors involved are obviously greater than a juvenile can cope with.
- 6) Anytime the pursuing officer experiences equipment failure with the police vehicle's emergency red lights, siren, brakes, or steering.
- 7) When it becomes futile to continue the pursuit as in the case where the suspect vehicle is traveling a substantial distance ahead of the pursuing police vehicles and the distance between the officers and the suspect continues to grow.
- 8) If the pursuing officer fails to establish and maintain communication with the Richfield on-duty supervisor.
- 9) When a pursuit is terminated all officers involved must verbally terminate and air their location.
- 10) When a pursuit has been terminated, the pursuing officers shall notify dispatch and:
 - A) Reduce speed to the posted legal speed limit sign
 - B) Turn off emergency lights and sirens
 - C) Turn off the pursuit route at the next available intersection

COMMUNICATIONS CENTER RESPONSIBILITIES

The communications center responsibilities include the following:

- 1) Receive and record all incoming information on the pursuit and the pursued vehicle;
- 2) Immediately notify the duty supervisor when a pursuit is initiated;
- 3) Clear radio channel of any unnecessary traffic and advise all other units that a pursuit is in progress, providing all relevant information;
- 4) Perform relevant record and motor vehicle checks;
- 5) Control all radio communications during the pursuit which will include frequency designation;
- 6) Coordinate assistance under the direction of the commanding officer or the duty supervisor;

- 7) Continue to monitor the pursuit until it has been terminated;
- 8) Notify outside agencies if the pursuit is leading out of the City.
- 9) Specify that the call is either a request for assistance or merely a courtesy notification for inter-jurisdictional pursuits.

SUPERVISORY RESPONSIBILITIES

1) Commanding Officer

The commanding officer may assume command.

2) Duty Supervisor

Upon being notified of the pursuit, the duty supervisor shall verify the following:

- a) Specific reason for the pursuit
- b) No more than the required or necessary units are involved in the pursuit;
- c) Proper radio frequency is being utilized;
- d) Affected allied agencies are being notified;
- e) Acknowledge responsibility of the pursuit over the radio;
- f) Monitor the pursuit;
- g) Request air support when deemed necessary;
- h) Exercise their authority and responsibility to decide whether to commit additional squads or to terminate the pursuit if they believe that the risk to the general public and officers outweighs the necessity to immediately arrest the suspect;
- i) Respond as soon as possible to the scene when the pursuit is terminated with the apprehension of a suspect or at the scene of a collision. If the pursuit is called off, the pursuit supervisor does not have to respond to the scene;
- j) Whenever practical, supervisors shall not allow the offender or passengers to be removed from the vehicle by the primary pursuit officers. The arrested suspect(s) shall not be transported by the primary pursuit vehicle unless specifically authorized by the pursuit supervisor;
- k) Write a pursuit summary memo including all of the following information:
 - a) Date and time of the pursuit and the Case Control Number (CCN);
 - b) Squad(s) involved in the pursuit;
 - c) Offense that led to the attempted stop;
 - d) General route of the pursuit, approximate distance covered and approximate speeds attained;
 - e) Description of the weather and road conditions;
 - f) Outcome of the pursuit including a description of any damage or injuries sustained as a result of the pursuit;
 - g) Statement as to whether department policies were followed during the pursuit;
 - h) Any information deemed relevant
- l) The Pursuit Summary Memo shall be emailed as an attachment to:
 - a) Patrol Lieutenant
 - b) Deputy Chief

The duty supervisor should continue to direct the pursuit, and approve or order alternative tactics, such as the use of a roadblock, and maintain control until the pursuit is terminated.

In the absence of adequate information from the primary or backup unit, the duty supervisor shall order termination of the pursuit.

As with any tactical field problem, it is not necessary that the duty supervisor be physically present in order to begin coordination and assert control of the pursuit.

The duty supervisor should proceed to the termination point to provide guidance and necessary supervision.

EMERGENCY VEHICLE OPERATION AND TACTICS

1) Offensive Tactics:

In the course of pursuit, deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches, or any other obstacle, heading off, or ramming the pursued vehicle while it is in motion **shall** be prohibited, unless such actions are specifically authorized by the commanding officer or the duty supervisor and when the use of deadly force would be authorized.

No officer will intentionally make vehicle-to-vehicle contact unless in conformance with Department Policy #201 "Use of Force." Vehicle contact, when authorized, should be exercised in a manner that attempts to minimize potential injury.

Reckless or hazardous driving maneuvers should not be duplicated by any pursuing vehicle.

2) Number Of Police Vehicles:

Richfield units shall not engage in an active pursuit when there are already 2 units (from any agency) actively pursuing; unless specifically directed or otherwise by the commanding officer or duty supervisor. Other officers should be alert to the pursuit progress and location.

3) Spacing:

All units in pursuit, whether the vehicle in front of the unit is the suspect vehicle or another police vehicle, should space themselves at a distance that will ensure proper braking and reaction time in the event the lead vehicle stops, slows, or turns.

4) Caravanning:

[A line of police vehicles following the general route of the pursuit] There should be no caravanning by field units not directly involved in the immediate pursuit.

5) Passing:

There should be no attempt by officers to pass other field units involved in the pursuit unless the passing officer receives specific permission from the primary unit or the duty supervisor.

6) Unmarked Police Vehicles:

Officers operating unmarked vehicles (provided the vehicle is equipped with emergency lights and siren) may engage in pursuit only when the fleeing vehicle presents an immediate and direct threat to life or the significant probability of causing great bodily harm.

Whenever a marked vehicle becomes available to take over the pursuit, the unmarked vehicle **shall** withdraw from active pursuit and serve in a support role.

7) Controlled Access Roadways:

Officers **shall** not pursue suspects the wrong way on a oneway, interstate or other controlled access highways or divided roadways unless specifically authorized by the commanding officer or duty supervisor.

8) Roadblocks:

The use of a roadblock must be authorized by the commanding officer or the duty supervisor. A roadblock should be employed only as a last resort when deadly force would be authorized (refer to Department Policy #210 "Use of Roadblocks in Emergency Situations").

9) Traffic Control Devices:

Extreme caution must be used whenever officers disregard traffic signs or signals, even though statutes specifically permit such conduct. Officers should make use of all available warning devices to alert other motorists and pedestrians.

INTERJURISDICTIONAL PURSUITS

The communications center should notify outside agencies if this Department is in pursuit in their jurisdiction. The informing person should specify that the call is either a request for assistance or merely a courtesy notification with no participation desired.

Officers should not become involved in another agency's pursuit unless specifically authorized by the duty supervisor or the emergency nature of the situation dictates the need for assistance.

This will be the case whether the officer becomes aware of a pursuit entering the jurisdiction from information provided by the communications center, or by other means. In any pursuit, regardless of the initiating agency or jurisdiction, Richfield Police Department vehicles shall observe the Richfield Police Department Pursuit policy regarding pursuits.

If the officer becomes aware of the pursuit other than through notification by the Communications Center, the officer should advise the Communications Center of the situation.

The initiating agency **shall** be in charge of the pursuit, unless that agency requests another to assume control. All assisting officers **shall** follow the direction of the officer in charge, unless it violates our Department policies. The initiating agency **shall** be in charge of any arrest. If an accident occurs, the agency serving the accident location **shall** determine who will investigate the accident.

In any inter-jurisdictional pursuit, all Richfield departmental pursuit policies are in effect.

AIR SUPPORT

Once contact is made with air support and air support has suspect vehicle in sight, the primary units' attempts to closely pursue the suspect vehicle should be reduced.

STOPPING/PURSUIT OF VIOLATORS

The responsibility for the decision to stop a violator or pursue a violator rests with the individual officer. In arriving at the decision the officer must carefully consider all factors involved, **including the seriousness of the offense, the possible consequences and, most importantly, the safety of the general public.**

In order to diminish the likelihood of a pursuit, officers intending to stop a vehicle should, when practical, be within a close proximity to the vehicle prior to activating the emergency lights and siren.

During the course of enforcement activities, specific incidents may escalate from routine stopping situations if the suspect attempts to evade apprehension. If this occurs, applicable pursuit policy and procedures apply.

ASSISTANCE TO PERSONS INJURED IN A PURSUIT

The Communications Center **shall** be notified immediately of any accident and **shall** notify the appropriate Emergency Medical Service (EMS) provider.

If the pursuing officer becomes aware of a potentially significant injury to a third party resulting from the pursuit, the officer **shall** terminate the pursuit and provide medical assistance as necessary unless an assisting unit in the immediate vicinity stops to render such assistance. Any other units may continue the pursuit if sufficient assistance to the accident victim is being provided.

POST PURSUIT PROCEDURES

The Pursuit section of the *Special Incident Review* form **shall** be completed on every pursuit in conformance with Department Policy #138 "Special Incident Review." This report must contain the following information:

- 1) The reason(s) for, and circumstances surrounding the incident;
- 2) The alleged offense;
- 3) The length of the pursuit including time and distance;
- 4) The outcome of the pursuit;
- 5) Any injuries or property damage resulting from the incident; and
- 6) Any pending criminal charges against the driver.

This report must be filed with the state commissioner of public safety with 30 days.

In addition, all Richfield officers involved in the pursuit shall write a police report/follow-up report detailing their involvement in the pursuit. This applies to pursuits initiated by Richfield officers and/or Richfield officers involved in an interjurisdictional pursuit.

Any pursuit should be immediately reported to a Command Staff member via email.

TRAINING (MSS 626.8458, Subd. 5)

Police officers shall be required to complete in-service training in emergency vehicle operations and in the conduct of police pursuits. The training shall comply with learning objectives developed and approved by the Minnesota POST Board and shall consist of at least eight hours of classroom and skills-based training every five years.

Information obtained from a review of previous Department pursuits will be considered in the overall training needs of the Department and recommendations for any policy changes.

The training for this Policy should include an analysis of the discretion exercised in deciding when to pursue or terminate a pursuit.

By Order Of:



Chief of Police



213. POST CRITICAL INCIDENT PROCEDURE



RICHFIELD POLICE DEPARTMENT POLICY

Effective Date: 01/01/97
No. of Pages: 7
Serial Number: 10-113
Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this Policy is to provide guidelines that shall be uniformly applied following any officer involved in a critical incident that has resulted in death or serious injury, in order to maximize the investigation of the incident and minimize the traumatic effect the incident may have on the involved officer(s).

The Richfield Police Department and employees understand that the performance of law enforcement duties are inherently demanding; that such duties are sometimes performed under dangerous conditions and/or in a stressful environment; and that certain situations create a significant risk of physical and emotional harm to the officer. It is, therefore, important to the Department for the safety and well-being of its employees to ensure that all personnel in the service of the Department are physically, psychologically and emotionally fit and receive care for injuries received in the line of duty.

It is the purpose of this policy to establish standards and procedures for identifying circumstances that create a substantial risk of emotional harm and providing a means by which employees may seek assistance in dealing with the effects of traumatic events. This policy shall be administered in a manner which is consistent with the Department's desire to treat affected employees with dignity and respect under such circumstances and to provide information and assistance to them concerning their involvement in traumatic events, their recovery, and their return to duty.

II. POLICY

It is the policy of this Department that officers at the scene of an officer involved critical incident will take the appropriate steps to ensure the safety of those at the scene, apprehend suspects, provide medical assistance to those in need, protect the crime scene and take steps to assist in the safety and well-being of the involved officer(s).

III. DEFINITIONS

The following terms as used in this policy shall have the following meanings:

1. *Critical incident.* An incident involving any of the following situations occurring in the line of duty:
 - a) The discharge of a firearm by an officer resulting in injury or death to any person;
 - b) Any event in which a person dies or sustains serious bodily injury involving an officer in the performance of their duties;
 - c) Death or substantial bodily harm to an officer.
2. *Traumatic Incident.* Any event involving or witnessed by an officer that could have lasting effects. As determined by a Richfield Police supervisor/Command Staff.

3. *Substantial bodily harm.* Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
4. *Police report.* A report required by the Richfield Police Department Policy and Procedure Manual which sets forth the officer's account of an incident and which is entered into the Richfield Records Management system or any other data system for retaining Comprehensive Law Enforcement Data.
5. *Witness officer.* An officer who witnesses a critical incident but who apparently did not engage in any conduct constituting a critical incident.
6. *Involved officer.* An officer who appears to have engaged in conduct constituting a critical incident.
7. *Qualified Mental health professional.* A certified psychiatrist, psychologist who is approved to meet with officers and has an in-depth understanding of critical incidents and the law enforcement culture.
8. *Critical Incident Stress Debriefings.* A formal one-on-one or group discussion conducted by a qualified mental health professional and appropriately trained peer support team (CISM) that is designed to assist participants in understanding their emotions and strengthening their coping mechanisms following a critical incident.
9. *Escort Officer.* An officer assigned by the Designated Richfield Supervisor at the scene to stay with Involved and Witness Officer(s) until the Escort is relieved. Escorts assigned to Involved Officers shall be determined by a supervisor. Escort officers will provide emotional support and security to the involved officer.
10. *Investigating Entity.* The designated agency determined by the Chief of Police will be assigned the responsibility for the criminal investigation of the critical incident.
11. *Investigator.* The person(s) from the investigating agency who are conducting the criminal investigation of the critical incident.
12. *Designated Richfield Supervisor.* The ranking Richfield supervisor at the scene or his or her designee at the scene.

IV. PROCEDURES

Officers will take the following actions at the scene of a critical incident:

As soon as a critical incident occurs, a Witness or Involved Officer shall immediately notify: His/her immediate supervisor. The witness or involved officer will be required to provide pertinent public safety information related to the incident. .

On Scene Responsibilities:

Identify all potential hazards to the safety of police officers and others who are at, or will respond to, the scene of the critical incident.

- a. Respond as necessary to neutralize or contain any hazards to personal safety.
- b. Call for assistance as necessary to neutralize or contain such hazards to personal safety.
- c. Handcuff any criminal suspects and provide any identify and or identifying information about any suspects, witnesses, or other persons involved in the incident.
- d. Establish the Geographical scope or the critical incident scene.

Medical Treatment:

- a. Identify and assess any injuries and the need for medical assistance.
- b. Call for medical assistance as necessary.
- c. Provide first-aid and medical treatment.

Supervisory Responsibilities:

- a. A Richfield supervisor shall, immediately notify Richfield Command Staff per protocol

Inner perimeter:

- a. The on duty supervisor shall ensure the protection of the immediate scene of the incident. Allow access only to persons with a legitimate purpose.
- b. Identify and protect all physical evidence.
- c. Identify all potential witnesses.
- d. Establish a tape line or other barrier delineating the inner perimeter.
- e. Establish a log, noting the name, badge number, and times of all persons entering the inner perimeter.

Outer Perimeter:

- a. Identify and establish a manageable outer perimeter.
- b. Provide sufficient space for staging support personnel and services.
- c. Provide sufficient space to keep spectators and press sufficiently back from the immediate scene of the incident so as not to impede the investigative activities.
- d. Provide for adequate traffic flow of support personnel and services.

Immediate Action for involved officers:

- a. Separation involved officers.
- b. Transport involved officer(s) to a safe and private location.
- c. Keep involved officers away from the press; do not allow photographs or interviews.
- d. Assign Escort Officer.

Involved Officer Management

1) Dealing with the officers following a critical incident.

Officers involved in critical incidents, whether Witness or Involved Officers, can be profoundly affected by the incident. How a Witness or Involved Officer is treated during the time following a critical incident can minimize or aggravate the psychological effect on them. Therefore, first and foremost, anyone dealing with a Witness or Involved Officer should keep in mind the following guiding principles at all times:

- a) Be sensitive to individual officer needs. Physical contact with the officer must be evaluated on an individual basis. Often officers feel overwhelmed by all of the people wanting to console them. Before attempting to speak with an officer, please ask the supervisor attending to the officer to inquire if s/he would like to meet with you. If the officer declines to meet with any particular person, please honor his/her decision.
- b) Because both Witness and Involved Officers can be profoundly affected by critical incidents, they should not be left alone or ignored.
- c) Avoid making the officer(s) feel like a suspect.

2) Escort Officer Responsibilities

- a) The assigned Escort Officers primary responsibility should be focused on calming physical and emotional stress and restoring and/or reinforcing the involved officers' sense of safety, and assist in the personal needs of the involved officer.
- b) Assist with providing food, drink, and restroom facilities.
- c) Personal Needs of the Officer. If an Involved Officer's requests, she/he shall not be unreasonably denied access to those requests (food, drink, restroom facilities).
 - Food and drink
 - Restroom facilities
 - Telephone or cellular phone to contact loved ones; Offices should be provided the opportunity to contact their family members as soon as possible. It is best for the officers themselves to contact their families. It is therefore prudent that no contact be made with family members before the officer(s) have had this

- opportunity. If this opportunity is significantly delayed, or officers are injured and unable to call themselves, then individuals who preferably know the families and have been previously chosen by officers should call as soon as possible. Offers to call other support people such as family members, chaplains, and so on, should be made to ensure that the family members have their support system mobilized. Family members who wish to be with the injured officers should be offered transportation in lieu of driving themselves.
- Family members should not respond to the station until arrangements have been made by a command staff member.
 - A Police Chaplain or other clergy.
- d) It is prudent that no contact be made with family members before the officer(s) have had this opportunity. If this opportunity is significantly delayed, or officers are injured and unable to call themselves, then individuals who preferably know the families and have been previously chosen by the officers should call as soon as possible.
- e) Offers to call other support people such as family members, chaplains, and so on, should be made to ensure that the family members have their support system mobilized. Family members who wish to be with the injured officers should be offered transportation in lieu of driving themselves.
- f) If the involved officer has an immediate need to talk about the details of the incident they should be encouraged to do so solely with individuals with whom they have privileged communication (i.e., attorney, chaplain, licensed mental health professional.)
- g) Assist the involved officer in making contact with a legal representative or appropriate bargaining unit representative to make arrangements for counsel and representation.

Involved Officers

1. At the scene.

- a) The Designated Richfield Supervisor shall determine which officers are Involved Officer(s). The Designated Richfield Supervisor/Command at the scene shall assign an Escort to stay with the Involved Officer(s) until the Escort is relieved.
- b) As soon as practicable, and with the permission of the Designated Richfield Supervisor, the Escort shall take the Involved Officer(s) from the scene to the Richfield Police Department or designated location. Escorts shall keep the Involved Officer(s) separate from other Involved and Witness Officers.
- c) Upon arrival of the Investigating Agency at the scene, the Investigator may meet with the Designated Richfield Supervisor. The Designated Richfield Supervisor shall identify all Involved Officer(s), other witnesses, and other known evidence at the scene for the assigned Agency Investigator.
- d) Involved Officers shall be allowed a reasonable opportunity to consult legal counsel or a representative of the officer bargaining unit for the purpose of obtaining legal counsel. Immediately after consultation with legal counsel, the legal counsel will inform the Investigating Agency if the Involved Officer(s) is willing to give a voluntary statement. Involved Officer(s) who are able and willing should have a period of recovery time before providing a full formal statement, generally within 24-48 hours if the officer is physically capable, at a location agreed upon by the Involved Officer(s) their legal counsel and the Investigating Agency. Under the review of legal counsel officers may have access to video technology.
- e) Officers involved in a Critical Incident may view or listen to video technology of the incident only after:

- The Officer has met with the Union representative or legal counsel, if those entities are requested by the officer, and
 - The officer and legal counsel have met with the investigative entity or designee regarding the process for Critical Incident set out in Policy #213.
- f) Unless a supervisor has a reason to believe that the officer poses a threat to himself/herself or to others or unless directed by a supervisor or Command Staff, the Involved Officer(s)' firearm should not be taken at the scene.
- g) Involved Officer(s) shall not talk to anyone at the scene about the incident, except to provide public safety information to enable the primary responders, investigators, or duty supervisor to secure the scene, facilitate the investigation, apprehend suspects, and to allow for officer or civilian safety at the scene. At the discretion of a supervisor, the Involved Officer(s) shall not be unreasonably denied access to a Union representative or legal counsel at the scene.
- h) Involved Officer(s) should not be left alone, and should not be placed in the back seat of a police vehicle.

INVOLVED OFFICER (S) NEEDING MEDICAL TREATMENT

1. Where an involved officer must be transported to a hospital for medical treatment, the Incident Commander shall assign an Escort Officer to accompany the involved officer to the hospital. Involved Officers should not be transported to the same hospital as any injured suspect(s) related to the incident.
 - a) Staffing Note: The assignment of an involved officer to accompany another involved officer to the hospital should be avoided whenever possible; however, if no reasonable alternative exists, the involved officer detailed to accompany the involved injured officer shall be relieved by another uninvolved Escort Officer as soon as practical. Any officer accompanying an involved officer should not discuss the incident with the involved officer.
2. Property Preservation: The Escort officer who accompanies an involved officer to the hospital shall ensure that all relevant evidence and property is preserved and safeguarded.
3. The escort officer who accompanies an Involved Officer to the hospital shall also provide the following aid and assistance:
 - a) If the injured officer is able to communicate and wishes to contact family or other significant persons, the escort officer will assist in making such contact.
 - b) Establish contact with the communication center (preferably with land line phone) and report on the status of the injured officer and any significant changes in the injured officer's condition. If the injured officer is not able to communicate, the accompanying officer shall notify the supervisor that the Emergency Notification must be made on behalf of the Involved Officer.

Note: This plan assumes that a sealed emergency notification instruction form will be kept on file with the Department which will express the officer's wishes in the event the officer is unable to communicate.
 - c) Relay to the Incident Commander through the communication center any information which might aid in the identification and apprehension of any suspects and any information relevant to the initial security and protection of the scene of the Incident.
 - d) Advise the admitting person at the hospital or other medical facility that the Involved Officer does not wish to be listed on any directory, and that the Involved Officer's name shall not be released or verified to any person.

Involved Officer Management

Away from Scene

- 1) A Department escort officer should be assigned to accompany an involved officer to the Police Department or other predetermined location.
- 2) The escort officer who accompanies an involved officer shall:
 - a) Assist the involved officer in making contact with the officer's family or other significant person to advise them of the incident.
 - b) Assist the involved officer in making contact with a legal representative or appropriate bargaining unit representative to make arrangements for counsel and representation.
 - c) Make arrangements for the provision of psychological resources to the involved officer(s).

Rights and Responsibilities of Involved Officer(s) See involved Officer INVESTIGATION BY OUTSIDE AGENCY

- 1) Under the following circumstances, the criminal investigation of a critical incident will be conducted by an outside agency :
 - a) Where the critical incident has occurred outside of the geographical area for which this Department has law enforcement jurisdiction; or
 - b) Where this agency has predetermined or where the Chief or his designee has determined at the time of the critical incident, that an outside agency will conduct the criminal investigation function on behalf of the agency.
- 2) Where an outside agency will conduct the criminal investigation, a liaison shall be established between this Department and the investigating agency to assist in the conduct of the criminal investigation. Unless provided otherwise by agreement with the investigating agency, the following guidelines shall apply in all cases where an incident is externally investigated:
 - a) A liaison officer shall be assigned to work with the investigating agency.
 - b) This Department will not have functional control of the criminal investigation, but shall provide for full cooperation between the agencies.
 - c) All requests for information, access to Involved Officers use of resources and equipment made by the investigating agency shall be made through the liaison officer assigned to assist with the investigation. Equipment, or weapon(s), are relevant to the investigation of the incident. Duty and or back-up Weapons discharged shall be presumed to have evidentiary value. Accordingly, such weapons shall be collected and preserved as evidence.
 - d) If requested by the investigating agency, Involved Officers shall make themselves available for a firearms inspection. As requested by the assigned investigator, an Involved Officer(s) shall surrender his/her firearm and any other requested equipment. Involved Officers shall be provided with replacement firearms and equipment as soon as reasonably possible.
 - Where feasible, weapons of involved officers shall be gathered through a weapons exchange at the request and direction of the investigating agency. Ideally, the officer will be provided with a replacement weapon at the same time that the officer's weapon is gathered for evidentiary purposes.
 - Where feasible, weapons exchanges and collection of weapons and equipment for evidentiary purposes shall be done in a private setting away from the view of the public and media.
 - Involved officers temporarily without weapons shall be shielded from public view and not placed in any position where their lack of weapon could foreseeably jeopardize their safety.
 - e) Use of resources and equipment made by the investigating agency shall be made through the liaison officer assigned to assist with the investigation.
 - f) Involved Officer(s) shall be afforded an opportunity to consult with legal counsel.
 - g) Consultation with Legal Counsel. Witness and Involved Officers are entitled to consult with their legal counsel during the pendency of the critical incident investigation, up to and including any grand jury proceedings. Such reasonable and necessary meeting or meetings shall be considered on-duty time.

PEER DEBRIEFING: All Involved Officers will take part in post critical incident support facilitated by the Metro CISM Team.

ADMINISTRATIVE LEAVE: Involved officers shall be placed on a mandatory paid administrative leave for a period determined by the Chief of Police following the critical incident.

PSYCHOLOGICAL DEBRIEFING: All Involved Officers shall be required to meet individually with a licensed Mental Health Professional trained and experienced in working with law enforcement personnel and familiar with officer- involved shootings. The involved officer(s) shall select a mental health professional from a preapproved list. Such meeting or meetings shall be considered on-duty time.

- a) Witness officer shall be encouraged and allowed to meet with the mental health professional selected by the officer from an approved list. Such meeting or meetings shall be considered on-duty time.

By Order Of:



Chief of Police

206. LIABILITIES ASSOCIATED WITH USE OF FORCE



**RICHFIELD
POLICE
DEPARTMENT
POLICY**

Effective Date: 11/29/93
No. of Pages: 6
Serial Number: 10-106
Authority: Chief Jay Henthorne

NOTE: This policy is for internal use only and does not enlarge an employee's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

I. PURPOSE

The purpose of this Policy is to familiarize officers in the Richfield Police Department with the potential liabilities associated with the use of force.

II. POLICY

It is the policy of this Department that all officers understand the potential liabilities associated with the use of force. Peace Officers Standards and Training (POST) Use of Force Learning Objective A8 requires that officers be able to explain the civil, criminal, licensing, and employment consequences of unlawful or unreasonable use of force.

III. PROCEDURE

Minnesota law gives peace officers the power to use force, and sometimes deadly force, in the course of their official duties. The law also places responsibility on peace officers to conform their use of force or deadly force to the requirements of Minnesota statutes, case law, state and federal constitutions, and licensing requirements. A peace officer who violates any of these laws in the use of force can be held both civilly and criminally liable for his or her actions.

Obviously, a peace officer, like any other citizen, is subject to state and federal criminal laws; that is if the officer should assault or kill a citizen unlawfully, that officer could be prosecuted for those offenses and punished like any other citizen. In cases of non-criminal excessive or unreasonable use of force, the injured citizen may have grounds to sue the police officer and municipality for civil damages due to assault, false arrest, wrongful death, and/or deprivation of civil rights, to cite only a few examples of typical civil causes of action. Additionally, the municipality employing the police officer can be sued and may be held civilly liable to the victim for the use of excessive force by a peace officer.

To properly understand potential criminal and civil exposure for excessive use of force or deadly force, officers must have a solid working knowledge of the Minnesota and federal statutory privileges and limitations on the use of force while in the scope of duty. Minnesota has general statutes authorizing the use of force and deadly force; specific statutes governing peace officers' use of deadly force; and arrest statutes authorizing the use of force and, in some limited circumstances, deadly force in effecting an arrest. Cases applying and interpreting these statutes provide additional information about the limitations on the use of force by peace officers. Federal statutes and federal court decisions also define what constitutes reasonable use of force and the liabilities officers and governments face when force is unreasonable.

STATUTORY GUIDELINES

MINNESOTA

- a) Minnesota Statutes section 609.06:
- A public officer, or a person acting under the public officer's direction, may use "reasonable force" in executing any duties imposed on the officer by law, including making a lawful arrest, executing legal process, or enforcing a court order.
 - Any person can use "reasonable force" to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.
- b) Minnesota Statutes section 609.065:
"Justifiable taking of life": Intentional taking of life is not authorized by section 609.06 "except when necessary in resisting or preventing an offense which the actor reasonably believes exposes the actor or another to great bodily harm or death." (The statutes also defines as "justifiable taking of life" by any person "preventing the commission of a felony in the actor's place of abode.")
- c) Minnesota Statutes section 609.066:
- Notwithstanding sections 609.06 and 609.065, a peace officer is justified in using deadly force in the line of duty 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";
 - (3) "effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed".
- d) Minnesota Statutes section 629.32: "A peace officer making an arrest may not subject the person arrested to any more restraint than is necessary for the arrest and detention."
- e) Minnesota Statutes section 629.33 describes the amount of force a peace officer may use to effect an arrest: "If a peace officer has informed a defendant that the officer intends to arrest the defendant, and if the defendant then flees or forcibly resists arrest, the officer may use all necessary and lawful means to make the arrest but may not use deadly force unless authorized to do so under section 609.066." This statute also defines reasonable use of force to enter a home: "After giving notice of the authority and purpose of entry, a peace officer may break open an inner or outer door or window of a dwelling house to execute a warrant if: (1) the officer is refused admittance; (2) entry is necessary for the officer's own liberation; or (3) entry is necessary for liberating another person who is being detained in the dwelling house after entering to make an arrest.
- f) Minnesota Statutes section 609.066 also states that that "section and sections 609.06, 609.065 and 629.33 may not be used as a defense in a civil action brought by an innocent third party."

Summary: If the officer informs the person of the intent to arrest and the individual flees or forcibly resists, the officer may use all necessary and lawful means to make an arrest but may not use deadly force unless consistent with Minnesota Statutes section 609.066, that is, to protect against or prevent death or great bodily harm.

FEDERAL STATUTES

- a) Statute: 42 U.S.C. § 1983 is a federal statute under which a citizen may obtain money damages for a violation of his or her civil rights by the government. The United States Congress has provided for civil liability when a peace officer acting under color of law uses excessive force or deadly force. Title (1988) provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and law, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

Section 1983 does not create any substantive rights, but it provides remedies for deprivation of rights established elsewhere. City of Oklahoma City v. Tuttle, 471 U.S. 808, 816 (1985). A constitutional or statutory violation can be the basis for a section 1983 claim. Main v. Thiboutot, 488 U.S. 1, 4 (1980). Parties injured by constitutional abuses are entitled to recovery of monetary damages. Bivens v. Six Unknown Named Agents of the Fed. Bureau of Narcotics, 403 U.S. 388, 397 (1971).

- b) Stating a Claim under Section 1983:
Only two allegations are necessary to state a cause of action under section 1983: (1) that a person has deprived the claimant of a federal right, and (2) that the person so depriving acted under color of state law. L.K. v. Gregg, 425 N.W.2d 813, 818 (Minn. 1988) (citing Gomez v. Toledo, 446 U.S. 635, 640 (1980)).
- c) Custom, Practice, or Policy:
A municipality may, in certain circumstances, be held liable under section 1983 for its failure to train its employees. City of Canton v. Harris, 489 U.S. 378, 380 (1989). The U.S. Supreme Court in the Harris case stated: “[T]he inadequacy of police training may serve as the basis for § 1983 liability only where the failure to train amounts to deliberate indifference to the rights of persons with whom police come into contact.”

Only when the municipality’s failure to train its employees in a relevant respect evidences a “deliberate indifference” to the rights of his inhabitants can such a shortcoming be characterized as a city “policy or custom” actionable under section 1983. Id. at 389. The failure to train must be a “policy,” as the Supreme Court has defined that term, and reflect a “deliberate” or “conscious” choice in order for a municipality to be liable. The Court gave an example:

[C]ity policy makers know to a moral certainty that their police officers will be required to arrest fleeing felons. The city has armed its officers with firearms, in part to allow them to accomplish this task. Thus, the need to train officers in the constitutional limitations on the use of deadly force can be said to be "so obvious" that failure to do so could properly be characterized as "deliberate indifference" to constitutional rights.
Id. at 390 n.10

CASE LAW

In addition to the statutory privileges, requirements, and restrictions on the use of force and deadly force, judicial law, also known as “case law,” has interpreted the constitutions and statutes to place limitations on the use of force, particularly deadly force. The courts have construed the use of excessive force to implicate citizens’ constitutional rights to be free from unreasonable seizures and to enjoy equal protection of the laws and due process of law.

- a) General rule: an officer will be found liable in a civil lawsuit or guilty of a crime if the force used was excessive. A party can recover only for injuries resulting from the excessive use of force, not for all injuries incurred during the arrest, and an officer will not be found guilty of a criminal offense if the force used was reasonable.
- b) What is “excessive” depends on the particular circumstances encountered. There is no absolute and inflexible rule defining what constitutes excessive force.
- c) Key question is whether force used was appropriate in light of the situation at the time.

FEDERAL CASE LAW

Decisions by the U.S. Supreme Court are the law of the land. A decision by the U.S. Court of Appeals for the Eighth Circuit (which includes Minnesota as well as Arkansas, Iowa, Missouri,

Nebraska, North Dakota, and South Dakota) or the U.S. District Court for the District of Minnesota governs actions in Minnesota.

Leading U.S. Supreme Court cases on use of force is Graham v. Conner, 109 S.Ct. 1865 (1989).

- Facts: A person with diabetes had friend drive to store to get orange juice. Line was too long, so he rushed back out and told friend to drive to another friend's house. Police saw, followed and stopped. Would not listen to claims regarding medical needs. Graham was thrown on sidewalk; handcuffed; thrown on hood. Friend was not allowed to give him OJ. Police determined nothing happened at store and released him. Injuries: Broken foot, injured wrist, bruised forehead, injured shoulder, ringing in ear.
 - Claim: Civil rights action, claiming excessive force in course of investigatory stop.
 - Holding: The use of excessive force by a police officer might furnish the basis for a claim under section 1983. All excessive force claims under section 1983 are not adjudged the same. Court must first identify the constitutional right allegedly infringed by the challenged application of force, then judge the claim by the specific constitutional standard that governs the right. Most cases claim a Fourth Amendment unreasonable seizure or Eighth Amendment cruel and unusual punishment. In evaluating the reasonableness of a seizure, courts are to consider: "[T]he facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." Graham v. Conner, 490 U.S. 386, 396 (1989).
 - Standard against which use of force during an arrest, investigatory stop or other seizure of a free citizen (non-prisoner) is most properly characterized as involving the protections of the Fourth Amendment, which guarantees citizens the right to be secure in their persons against unreasonable seizures. Therefore, use the Fourth Amendment's *objective reasonableness* standard.
 - Factors to be considered:
 - (1) Severity of crime;
 - (2) Whether the suspect poses an immediate threat to the safety of the officers or others;
 - (3) Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.
 - Objective reasonableness is judged from the perspective of a reasonable officer on the scene, and in light of the facts and circumstances confronting the officer, but without regard to the officer's underlying intent or motivation. This determination must allow for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.
- d) Leading U.S. Supreme Court case on use of deadly force is Tennessee v. Garner, (1985).
- Facts: Officer saw Garner, and, noticed from his hands that he was young and unarmed. The officer yelled a warning which went unheeded. The officer shot and killed Garner.
 - Rule: If a suspect threatens an officer with a weapon or there is probable cause to believe he or she has committed a crime involving the infliction or threatened infliction of serious physical harm or death, deadly force may be used if necessary to prevent escape and if, where feasible, some warning has been given. Current standard is still one of "objective reasonableness."
 - Holding: Fatal shooting of a fleeing suspect constituted an unconstitutional seizure. The use of deadly force to apprehend a suspect who is unarmed and who poses no threat to an officer or others will result in liability of the officer. In such a case, the

harm resulting from the failure to apprehend does not justify the use of deadly force to do so.

e) Other deadly force cases:

- *Brower v. Inyo County* (1989): There is only a Fourth Amendment seizure when there is governmental termination of freedom of movement through means intentionally applied. Use of an 18-wheel truck as a roadblock, placed in such a manner as to be likely to kill decedent, constituted unreasonable seizure by excessive force. If police sideswiped, would be seizure. If chase and he unexpectedly loses control and crashes, not seizure. Once determine seizure, determine if unreasonable.

Summary: The general principle is that there is less privilege to use force if the suspect is not armed, not dangerous, and not resisting arrest or fleeing. Some factors that have been used to determine if force was excessive:

- Known character of arrestee;
- Risks and dangers faced by the officer;
- Nature of the offense involved;
- Chance of the arrestee's escape if the particular means are not employed;
- The existence of alternative methods of arrest;
- The physical size, strength and weaponry of the officer as compared to the arrestee;
- "Exigencies of the moment."

Some practical considerations: The nature of case and status of offender do not directly influence the degree of force that is appropriate, but these factors affect the risks the officer can anticipate facing. Questions to consider:

Is there potential of death or great physical harm if the suspect is not apprehended immediately?

- What other means are available?
- Where are you in relation to the suspect and in terms of your safety?
- Are there other people present who might be harmed?
- How big is the suspect in relation to you?

Damages in cases in which the officer is found to have used unreasonable deadly force can be significant.

STATE CASE LAW

Minnesota Supreme Court decisions constitute the rule of law in Minnesota. Some Minnesota Court of Appeals decisions also have the force of law over persons and actions in Minnesota.

Qualified Immunity

Even if the plaintiff's claims are actionable under section 1983, the police are sometimes entitled to "qualified immunity" against those claims. Qualified immunity (also called "good-faith" immunity) is an affirmative defense available to public officials sued for damages under section 1983.

Elwood, 423 N.W.2d at 674 (citing Harlow v. Fitzgerald, 457 U.S. 800 (1982)). The standard for qualified immunity was set forth by the U.S. Supreme Court in Harlow v. Fitzgerald:

"[G]overnment officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Harlow, 457 U.S. at 818. The two-part question is (1) whether the officer violated a particularized law at the time of conduct, and (2) whether no reasonable officer would have acted similarly. Qualified immunity should be recognized if officers of reasonable competence could disagree on the issue.

Official Immunity Doctrine

The doctrine of "official immunity" protects from personal liability a public official charged by law with duties that call for the exercise of judgment. Rico v. State, 472 N.W.2d 100, 106-07 (Minn. 1991). To have official immunity: (1) the challenged acts must have occurred in the exercise of the officer's discretion, and (2) the officer must not have committed a willful or malicious wrong.

In defining the scope of official immunity, the Minnesota Supreme Court distinguishes between “discretionary” duties, which are immunized, and “ministerial” duties, for which the officer remains liable. The court has described an official’s duty as ministerial “when it is absolute, certain and imperative, involving merely the execution of a specific duty arising from fixed and designated facts.” Cook v. Trovatten, 200 Minn. 221, 224, 274 N.W. 165, 167 (137).

Police officers are generally classified as discretionary officers who are typically entitled to official immunity for actions within the line of duty. In making the decision to use deadly force, it is necessary for a police officer to determine whether a felony is in progress and whether the officer or another person is in imminent danger. Such a decision necessarily involves the exercise of judgment or discretion. Thus, the decision whether to use deadly force is properly characterized as discretionary. Consequently, police are entitled to official immunity if they did not commit a willful or “malicious wrong.” “Malice” is defined as a term that “means nothing more than the intentional doing of a wrongful act without legal justification or excuses, or, otherwise stated, the willful violation of a known right.” Carnes v. St. Paul Union Stockyards Co., 164 Minn. 457, 462, 205 N.W. 630, 631 (1925). Thus, in the official immunity context, “willful” and “malicious” are synonymous. Liability will attach when a police officer intentionally omits an act that the officer, at the time of the act, has reason to believe is wrong. Whether or not an officer acted willfully or maliciously is usually a question of fact to be resolved by the jury.

Discretionary Immunity

Minnesota Statutes section 466.03, subdivision 6, establishes that a municipality is immune from any tort liability for: “[A]ny claim based upon the performance or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused.” In analyzing the discretionary function exception, the Minnesota Supreme Court has distinguished between “planning” decisions (which are discretionary and protected) and “operational” decisions (which are not discretionary and are not protected). Planning level decisions are those involving questions of public policy, that is, the evaluation of factors such as the political, economic and social effects of a given plan or policy. Holmquist v. State (Minn. 1988). Operational decisions are those relating to ordinary day-to-day operations of the government. The critical inquiry is whether the challenged governmental conduct involved a balancing of police objectives. Nusbaum v. County of Blue Earth (Minn. 1988). Not all acts involving the exercise of judgment by government agents are protected as discretionary functions. The protection afforded by discretionary function exception does not extend to professional or scientific judgment where such judgment does not involve a balancing of policy objectives. Instead, “government conduct is protected only where the state produces evidence that the conduct was of a policy-making nature involving social, political, or economic considerations.”

The training a city provides to its police officers is a policy decision. The city must decide what kinds of training the officers need and must take into account the resources the city has to pay for such training. Thus, the city is protected by discretionary immunity.

Licensing Consequences

In addition to the criminal and civil liabilities for use of excessive force or deadly force, peace officers can face licensing consequences from the Minnesota POST’s Board. The 1992 Minnesota Legislature requires that all peace officers be trained annually in the use of force and deadly force. The officers must conform their conduct to the requirements of Minnesota and federal law. The use of excessive force, particularly deadly force, can be considered police misconduct, which could subject the officer to sanctions including the loss of license.

By Order Of:



Chief of Police