

# Faribault Police Department

<b>Policy #:</b> 301	<b>Subject:</b> Use of Force
<b>Issued by:</b> Chief Andy Bohlen	
<b>Personnel:</b> Sworn Personnel	<b>Date Issued:</b> December 22, 2020

*Note: This policy is mandated by Minnesota Statutes Section 626.8452 and Minnesota POST Board. Annual training and records are required. All training will be done in compliance with Minnesota Statute Section 626.8452 subd. 2 and subd. 3.*

## **Purpose**

A Policy for the Use of Deadly Force is required for all law enforcement agencies by Minnesota Statutes, Section 626.8452. The purpose of this policy is to provide officers with guidelines for the use of force and deadly force in accordance with:

Minnesota Statutes Section 626.8452 Deadly Force and firearms use; policies and instruction required,

Minnesota Statutes Section 609.06 Authorized Use of Force,

Minnesota Statutes Section 609.065 Justifiable Taking of Life,

and,

Minnesota Statutes Section 609.066 Authorized Use of Deadly Force by Peace

Officers, Minnesota Statutes Section 629.32 Minimum Restraint Allowed for Arrest.

## **Scope**

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

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

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

The decision by an officer to use force or deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using such force.

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

## **Definitions**

***Non-Deadly Force:*** all force used by an officer which does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.

***Deadly Force:*** all force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.

***Great Bodily Harm:*** bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

***Weapon:*** any instrument used, or designed to be used, to apply force to the person of another.

***Approved Weapon:*** a device or instrument which an officer has received permission from the department to carry and use in the discharge of that officer's duties, and, for which the officer has: (1) obtained training in the technical, mechanical, and physical aspects of the device; and (2) has developed a knowledge and understanding of the law, rules, and regulations regarding the employment of such weapons.

***Impact Weapons:*** objects and instruments which are used, or are designed to be used, to apply force to the person of another by coming into physical contact with that person.

***Chemical Agents:*** OC (Oleoresin Capsicum)

***Electronic Incapacitation Devices:*** a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current. Per Minnesota Statutes Section 624.731, Subdivision 1(2), electronic incapacitation devices do not include cattle prods, electric fences, or other electric devices which are used in agricultural, animal husbandry, or food production activities.

***Neck Restraint/Chokehold:*** The act of compressing one or both sides of a person's neck, or applying direct pressure to the trachea or airway (front of the neck).

***De-Escalation:*** A tactic designed to place officers in a position of advantage when dealing with irrational, unpredictable, or suicidal persons. De-escalation helps officers stay focused and calm during crisis situations to bring chaotic moments to as peaceful a resolution as the suspect will afford.

## **Policy**

### **A. Use of Deadly Force**

1. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;
  - a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
    - i. can be articulated with specificity by the law enforcement officer;
    - ii. is reasonably likely to occur absent action by the law enforcement officer; and
    - iii. must be addressed through the use of deadly force without unreasonable delay;  
or
  - b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
2. An officer should not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).
3. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

### **B. Use of Certain Types of Force**

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

### **C. Use of Non-Deadly Force**

1. It is the policy of this department to accord officers discretion in the use of non-deadly force to the extent permitted by Minnesota Statutes Section 609.06, which permits police officers to use reasonable force in:
  - a. effecting a lawful arrest; or
  - b. the execution of legal process; or
  - c. enforcing an order of the court; or
  - d. executing any other duty imposed upon the public officer by law.
2. In determining the degree of force which is reasonable under the circumstances, officers should consider:
  - a. the severity of the crime at issue;
  - b. whether the suspect poses an immediate threat to the safety of the officers or others; and
  - c. whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

### **D. General Rules Governing Use of Force**

1. Officers should use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision should not be construed, however, to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.
2. Protracted hand-to-hand combat may be harmful to the public safety, the safety of law enforcement personnel, and the safety of the person being arrested or captured. Accordingly, it shall be deemed reasonable for officers to use that type and degree of non-deadly force necessary to bring a subject whom the officer intends to arrest or capture quickly under control.
3. Officers must carry and use only approved weapons, as that term is defined previously, unless circumstances exist which pose an imminent threat to the safety of the officer or the public requiring the immediate use of a non-approved weapon to counter such a threat. This provision should not be construed as authorizing officers to use a non-approved weapon where, under the circumstances, it would be feasible to procure approval for use of the particular weapon prior to its use.
4. No officer shall modify, alter, or cause to be altered an approved weapon in his or her possession or control.
5. Displays of Firearms - Firearms may be readied for use in situations where it is reasonably anticipated that they may be required.

6. Threatening the Use of Force- An officer may announce to another his or her intention to use only that type and degree of force which may reasonably be necessary under the circumstances. This provision should not be construed to authorize or endorse the use of discourteous, abusive, or unprofessional language.
7. Duty to Intercede  
Regardless of tenure or rank, an officer must intercede when:
  - a. present and observing another officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
  - b. physically or verbally able to do so
8. Positional Asphyxia
  - a. Faribault Police Officers will be capable of demonstrating knowledge of Positional Asphyxia and the dangers it presents
  - b. Faribault Police Officers will be properly trained in arrest and control tactics as it pertains to the prevention of Positional Asphyxia
9. Neck Restraints/chokeholds
  - a. Any form of neck restraint/chokehold is prohibited unless authorized under Minnesota State Statute 609.066, Authorized Use of Deadly Force by Peace Officers.
10. Minimal Force
  - a. Faribault Police Officers will adhere to Minnesota State Statute 629.32 whereas a Peace Officer making an arrest or detention may not subject the person arrested to any more restraint than is necessary for the arrest and detention.

## **E. Specific Rules Relating to the Use of Specific Weapons**

### **1. Impact Weapons**

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

- c. Officers striking another person with an impact weapon should attempt to strike, if possible, bodily areas likely to result only in incapacity. These areas include center mass target areas, including: the arms, legs, and body.

## **2. Chemical Agents**

- a. The use of chemical agents is governed by the provisions governing non-deadly force. Only chemical agents which are approved weapons, as previously defined, can be used.
- b. Officers must exercise due care to attempt to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.
- c. Chemical agents must not be applied to any person for the purpose of effecting punishment.
- d. First aid or medical attention must be provided to all persons sprayed with chemical agents.

## **3. Use of Electronic Incapacitation Devices**

The use of electronic incapacitation devices are subject to the provisions governing non-deadly force.

Only electronic devices that are approved weapons, as previously defined, shall be used.

## **Reporting Requirements**

1. An officer using deadly force or any non-deadly force greater than verbal commands, open hand techniques or escort shall complete a detailed report documenting their actions concerning the incident. Additionally, an Officer shall complete a detailed report documenting their actions concerning any incident involving the use of force that results in injury. A detailed report shall include the identification of any use of force techniques applied during the incident. The Chief of Police or a supervisory officer may suspend the application of this provision where an otherwise complete formal investigation of the incident will be undertaken.
2. The Chief of Police or a supervisory officer shall review all incidents involving the use of force with the reporting officer involved and make additional inquiries, if necessary, to determine whether the use of force was in compliance with this policy and other policies that might be relevant to the incident. The Chief of Police or supervisory officer shall review the detailed reports of all incidents involving the use of force and provide approval of the detailed reports and documentation submitted, indicating that the use of force is justified and within departmental policy. Any use of force incident involving a supervisory officer shall be reviewed by their direct supervisor. The Chief of Police or that direct supervisor shall review the detailed reports of all incidents involving the use of force and provide approval of the detailed reports and documentation submitted, indicating that the use of force is justified and within departmental policy. A supervisory officer shall notify the Chief of Police of any reviewed use of

force that has been deemed inappropriate or unreasonable. This notification shall specify the details of that determination which will include any additional facts not specified in the detailed report. If it is determined that the use of force incident is not justified or it is found to be in violation of departmental policy, the Chief of Police or supervisory officer will complete supplemental documentation. All supplemental documentation will be supplied to the Chief of Police.

3. Any use of force incident in which The Chief of Police is personally involved will be reviewed by the Supervisor of Faribault Police Department's Use of Force Program and the Administrative Captain. If the use of force is deemed inappropriate or unreasonable, the Administrative Captain shall notify the Faribault City Administrator or an external Law Enforcement Agency for additional review. The Supervisor of Faribault Police Department's Use of Force Program shall review each use of force incident involving the Chief of Police and provide approval of the detailed reports and documentation submitted, indicating that the use of force is justified and within departmental policy.
4. If the results of the review and investigation of a use of force encounter indicate a violation of this policy or other policies that might be relevant to the incident, a copy of the report and any investigatory data shall be forwarded to the Chief of Police for review, direction on further handling, and directions on dissemination of the report and investigatory data.