



Police 106: Use of Force/Response to Resistance

PURPOSE

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

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

ORDER 106

Reflective of departmental core values of fairness, compassion and a commitment to the protection of life, we respect and recognize the value of human life. Officers vested with the lawful authority to use force to protect themselves and others will use only that force which is reasonably necessary.

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.

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

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

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification. This policy applies to all licensed peace officers, community service officers, and reserve officers engaged in the discharge of official duties.

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DEFINITIONS

Bodily Harm: Physical pain or injury.

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.

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

De-Escalation: Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.

Other Than Deadly Force: Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.

Choke Hold: A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

Authorized Device: A device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:

- a. obtained training in the technical, mechanical and physical aspects of the device; and
- b. developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

ORDER 106.1: PROCEDURE

General Provisions

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

2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.

3. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.

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4. All uses of force shall be documented and investigated pursuant to Lakeville policy.

ORDER 106.2: 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

ORDER 106.3 Duty to Report

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting officer.

ORDER 106.4 De-escalation

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

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

3. Escalation and/or de-escalation may be appropriate at any time during the incident.

ORDER 106.5 Use of Other Than Deadly Force

1. When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances:

- a. effecting a lawful arrest; or
- b. the execution of legal process; or
- c. enforcing an order of the court; or
- d. executing any other duty imposed upon the public officer by law; or
- e. defense of self or another.

ORDER 106.6 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 must be considered by the officer prior to applying these measures.

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ORDER 106.7 Use of Deadly Force

1. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;

- a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - i. can be articulated with specificity;
 - ii. is reasonably likely to occur absent action by the law enforcement officer; and
 - iii. must be addressed through the use of deadly force without unreasonable delay; or

- b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.

2. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (1a), items (i) to (iii).

3. Firing a weapon from or toward a moving vehicle is inherently dangerous to both the involved officer and innocent third parties. Therefore, officers should avoid firing weapons from a moving vehicle except in circumstances permitting the use of deadly force and after careful consideration of the possibility of collateral injury or death

4. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.

ORDER 106.8 Training

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.

2. In addition, training shall be provided on a regular and periodic basis and designed to
 - a. Provide techniques for the use of and reinforce the importance of de-escalation
 - b. Simulate actual shooting situations and conditions; and
 - c. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.

3. Before being authorized to carry a firearm all officers shall receive training and instruction with regard to the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.

4. Before carrying an authorized device all officers shall receive training and instruction in the use of the device including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.

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5. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.

6. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.

ORDER 106.9 Recordkeeping Requirements

1. The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.
2. A Taser and/or less lethal 40 mm Launcher Incident report will be completed by the officer in addition to the written report which is required under this policy. This report is required if the less lethal 40 mm launcher or Taser are deployed.
3. Supervisors shall review all incidents involving these specified uses of force and submit a separate report to the Chief of Police. Supervisors are to look at each specific use individually and review, evaluate, and document accordingly. This report shall contain the supervisor's evaluation of the incident and whether the actions complied with the provisions of this order.
4. Violations of use of force will be evaluated for appropriate discipline by the Chief of Police or designee.

ORDER 106.10 Equipment

1. The Wrap Restraint System
 - a. Designed to safely immobilize a subject in the following situations:
 - i. When the officers anticipate possible violent or combative behavior.
 - ii. When dealing with a violent or combative subject.
 - iii. To limit the capability of violent or combative subject to cause injury to themselves or others.
 - iv. To prevent violent or combative subjects from damaging property by kicking, head-butting or similar behaviors.
 - v. When conventional methods of restraint are not anticipated to be effective.
 - vi. Transporting subjects who have displayed violent or combative tendencies.
 - b. After a subject is restrained with the Wrap, they should be monitored at all times.
 - c. Only officers trained on the Wrap Restraint System are authorized to use the device.
2. Chemical Agents
 - a. The use of chemical agents shall be governed by the provisions governing reasonable force. Only chemical agents which are approved weapons shall be used.
 - b. Once a subject has been controlled and secured, they should be exposed to fresh air, the face flushed with cool water and they should be allowed to remove contact lenses if worn. If irritation persists or fails to improve with fresh air, the subject should be examined by paramedics or taken to a medical facility.
 - c. Officers shall exercise due care to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.
 - d. Chemical agents shall not be applied to any person for the purpose of effecting punishment.

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3. Electronic Compliance Devices/Tasers

a. Tasers should not be used on/when:

- Women known to be pregnant unless deadly force is authorized at the time of the Taser use.
- If the presence of flammable fumes, liquids or gases are known or likely, unless use of deadly force is justified.
- In any environment where the subject's immediate fall could reasonably result in death or great bodily harm such as at the direct edge of a rooftop or in a deep pool of water.
- On restrained individuals unless the actions of the person pose a threat of bodily harm to themselves or any other person.
- On passively resistant subjects. Defensive resistance or active aggression shall be required. Fleeing from an officer, by itself, is not justification for the use of the Taser.
- On soft tissue areas or the upper chest/breast area of an individual when possible.
- On persons who are displaying high levels of exhaustion.
- In a punitive or coercive manner, or as a means to extract information or admit guilt.

b. Officers should:

- Take into consideration and be aware that certain individuals are more susceptible to injury, such as small children, the elderly, or those suffering from obvious physical ill health; and should consider other use of force options available prior to using a Taser.
- Provide a warning when possible that a Taser will be utilized and attempt to take steps to reduce secondary injuries from a fall or a drowning hazard.
- Energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective; that being taking the subject safely into custody. The subject should be secured as soon as possible after the initial deployment to minimize the number of deployment cycles. In any case, each application and or trigger pull should be legally justifiable in the response to resistance continuum to attempt to secure and detain the individual.

c. No more than one officer should deploy a TASER against a single individual at the same time.

d. When using TASER 7 CQ Officers should refrain from using cartridges from a singular handle on two people at once.

e. Tasers shall not be demonstrated on those known to be under the age of 18, either in a drive stun mode or with the attached probes. This provision does not prevent the use of the Taser on juveniles who are combative or resisting arrest and where, had the suspect been an adult, the use of force would be justified.

f. Taser darts should be removed after the subject is restrained and done so in accordance to training procedures.

g. Anyone who requests medical treatment after the use of the Taser should be transported to a medical facility and evaluated. When a Taser probe is imbedded into the sensitive areas a medical professional will be called to remove it.

h. Officers should collect the cartridge and darts to place these items into evidence.

4. Contact Weapons

a. Contact weapons shall be used only where efforts involving the use of less force have failed, or where it reasonably appears to the involved officer that such methods would be ineffective if attempted. Contact weapons may be used only in the following manner:

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- a. To ward off blows or kicks from another person; or
 - b. To strike another for the purpose of overcoming the resistance; or
 - c. To restrain a person; or
 - d. In appropriate crowd control situations, to direct and control the movement of people or persons.
 - e. When use of deadly force is authorized by MSS 609.066 Sub. 2.
- b. Officers striking another person with a contact weapon should avoid striking, if possible, bodily areas likely to result in serious injuries or death, unless deadly force is authorized under this section. Officers striking another person with a contact weapon should attempt to strike, if possible, bodily areas likely to overcome the resistance.
- c. When possible, less than lethal force devices such as a 40 MM launcher device should only be deployed when the deploying officer has deadly force cover available from other officers. Any person struck with a less lethal force projectile must be taken to a medical facility for treatment.
5. Authorized Weapons
- a. Firearms (See Order 107)
 - b. Knife
 - c. Non- flammable aerosol spray
 - d. Baton/ASP Expandable Baton (any length)
 - e. X26 Taser, X26P Taser, Taser 7CQ
 - f. 40 mm Launcher
 - g. Any other weapon approved by the Chief of Police
 - h. Any weapon not authorized in advance that is needed for immediate use by an officer to counter an imminent threat to the safety of the officer or the public.