

106 USE OF FORCE/RESPONSE TO RESISTANCE 1/14

Lakeville Police Department Order #106

General Order- Use of Force

Date: 11/09 Personnel: Sworn Personnel Issued by: Chief of Police

Note: This policy is mandated by MSS 626.8452 and the Minnesota POST Board. Annual training and records are required.

Policy: Our policy is to use force that is reasonably necessary.

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.

a. Definitions:

- Deadly Force: 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 in the direction of another person, or at a vehicle in which another person is believed to be located, constitutes deadly force.
- Reasonable Force: An act that compels compliance, that is not excessive or extreme.
- Approved Weapon: Approved weapon means a device 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:
 - Obtained training in the technical, mechanical and physical aspects of the device and;
 - Developed a knowledge and understanding of the law, rules and regulations regarding the use of such weapons.
- Contact Weapons: Contact weapons mean all objects and devices which are used, or are designed to be used, to apply force to the person of another by coming into physical contact with the person. Contact weapons include, but are not limited to, police batons, flashlights, less lethal force devices, Sage, hands and feet. For the purposes of this policy, less lethal force devices are not considered firearms, but contact weapons.

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- Less Lethal Force: Force applied through the use of the extended range kinetic energy impact devices that have less potential for causing death or serious physical injury than deadly force.
- Electronic Compliance Device (Taser): A handheld, battery-operated, non lethal, conducted energy weapon. Voltage is applied to a subject either by two darts deployed from a cartridge that makes direct contact with a subject or by manually pressing the metal contact points of a cartridgeless Taser against a subject. The Taser unit uses an Electronic Muscular Disruptive system which overrides the central nervous system and affects the sensory and motor nervous system resulting in temporary, involuntary muscle contractions. The contractions will incapacitate a subject so they can be safely placed under the control of law enforcement officers. For the purpose of this policy the Taser is considered a non lethal/minimal impact weapon likely to have less lasting effects on a subject than chemical agents and impact weapons. The Taser is considered an approved electronic weapon for trained certified Lakeville Police Officers.
- Soft tissue areas: Areas considered when utilizing a Taser to be soft tissue are eyes, neck and groin/genital area.
- Chemical Agents: Chemical agents means chemical aerosols.
- Weapon: Weapon shall mean any device used, or designed to be used, to apply force to another person.
- Reasonable Grounds: When facts or circumstances the officer believes or should know are such as to cause an ordinary and prudent officer to act or think in a similar manner under similar circumstances.
- Great Bodily Harm: Bodily injury which creates a high probability of death or permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ.

b. Use of Deadly Force

MSS 609.066 Subd 2 authorizes peace officers acting in the line of duty to use deadly force only when necessary:

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- To protect the peace officer or another from apparent death or great bodily harm;
- To effect the arrest or capture, or prevent the escape, of a person whom the officer knows or has reasonable ground to believe has committed or attempted to commit a felony involving the use or threatened use of deadly force; or
- 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.

c. Use of Reasonable Force

MSS 609.06 permits police officers to use reasonable force:

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

d. Considerations regarding Use of Force/Response To Resistance

Officers shall use the least amount of force reasonably necessary to accomplish the intended objective, keeping in mind the safety of others and are not required to attempt to use types and degrees of force that would reasonably appear to be inadequate to accomplish the intended objective.

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 reasonable force necessary to bring a subject whom the officer intends to arrest or capture quickly under control.

When making an arrest or dealing with an incident officers should attempt to consider all options and take into account all viable means to minimize the risk of injury to themselves, their partners, citizens, and the subject.

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Officers shall carry and use only department approved weapons, unless circumstances exist which pose an imminent threat to the safety of the officer or the public requiring the immediate use of a non-approved weapon to counter such a threat. These non approved weapons may include in part such items as furniture, bats, rocks or any other object immediately accessible at the time of the event.

This provision shall 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.

No officer will modify, alter or cause to be altered an approved weapon in his or her possession or control without prior approval of the Chief of Police or designee.

Firearms may be readied for use in situations where it is reasonably anticipated that their use may be required.

e. **Response to Resistance**

- Levels of Resistance:
 - Psychological Intimidation
 - Verbal Non-compliance
 - Passive Resistance
 - Defensive Resistance
 - Active Aggression
 - Aggravated Active Aggression

- Levels of Control:
 - Officer Presence
 - Verbal Direction
 - Empty Hand Control
 - Soft Techniques
 - Hard Techniques
 - Intermediate Weapons*

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- Soft Techniques (includes chemical weapons and electronic compliance devices)*
- Hard Techniques (includes less than lethal force devices)*
- Deadly Force*

* Note: These require a written report. See “Section o, Reporting” in this order. If a subject complies through the implied use of an electronic compliance device without actually deploying it, a report is still required.

- Psychological Intimidation: A subject's non-verbal actions or postures which indicate that the subject is not cooperative or which indicate that the subject is preparing to take some type of resistive action. Examples are: clenched fists, fighting stance, shoulder set.
- Verbal Non-Compliance: Verbal remarks or statements that the subject makes which indicate that the subject is not willing to comply with the officer's lawful commands.
- Passive Resistance: Resistance in which the subject does not take any physical action but becomes “dead weight”.
- Defensive Resistance: Resistance in which the subject takes defensive physical action to prevent the officer's control, but does not take aggressive physical action to harm the officer.
- Active Aggression: Resistance in which the subject is non-compliant, uncontained, violent, armed or takes aggressive physical action towards an officer, themselves or others.
- Officer Presence: Uniformed officers and plainclothes officers who have identified themselves as police officers exert a level of control over subject simply by their position of authority.
- Verbal Direction: Officers exert a higher level of control over subjects when the officer verbally directs or lawfully commands a subject to do or not do something.
- Empty Hand Control: Control techniques that are applied without the use of a weapon.
- Intermediate Weapon Control: Control techniques that are applied with a weapon, not including a firearm.
- Deadly Force: See Order 106-a.
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- Soft Techniques: Techniques that are designed to gain physical control of a subject who demonstrates uncooperative, but manageable levels of resistance. Soft techniques can be applied with empty hands by use of pressure points, joint manipulation, and take downs. They can be applied with intermediate weapons by use of come-a-longs, takedowns, leverage control, chemical agents, and Tasers. When soft techniques are used the level of harm to the subject should not exceed the level of bodily harm where there is pain and discomfort. Soft techniques are generally applied in response to relatively low levels of resistance ranging from psychological intimidation to defensive resistance.
- Hard Techniques: Techniques that are designed to distract, displace balance or temporarily incapacitate a subject. Hard techniques can be applied with empty hands by use of punches, kicks and elbow or knee strikes. They can be applied with intermediate weapons by use of strikes and striking blocks or less lethal force devices. When hard techniques are used there is the likelihood that the result will be a minimum of bodily harm where there is pain, injury or impairment of physical condition. Depending on the level of resistance, these techniques can be applied to gain compliance or stop resistance from a subject. Application of these techniques may result in substantial bodily harm, great bodily harm and death. Hard techniques are generally used in response to levels of resistance which could cause harm to the officer or another.

f. Response Variables- May include but are not limited to:

- Officer/Subject Variables:
 - Number present and/or available
 - Size/Age
 - Training/Experience
 - Weapons available
 - Possibility of injury to officer, subject and/or bystanders

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Environmental Variables:

- Location-Indoors/Outdoors
- Traffic-Vehicular/Pedestrian
- Weather
- Bystanders-Friendly/Hostile
- Lighting-Daylight/Darkness

g. **Application of Response to Resistance**

- Progression is not strictly linear or vertical;
- Escalation and/or de-escalation may be appropriate at any time during the incident.
- A change in the levels of resistance and/or in the response may require a change in the level of control;
- It is possible that in a sudden deadly force encounter, an officer could go directly from officer presence or verbal direction to deadly force without attempting lower levels of control;
- Deadly force is not strictly applied with a firearm. It can be applied by the intentional use of less lethal, less than lethal and non-lethal weapons and techniques for deadly force purposes.
- Deadly force may result from the misuse of non-lethal weapons and techniques.

h. **Contact Weapons/Less than Lethal Force Devices**

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:

- To ward off blows or kicks from another person; or
- To strike another for the purpose of overcoming the resistance; or
- To restrain a person; or
- In appropriate crowd control situations, to direct and control the movement of people or persons.
- When use of deadly force is authorized by MSS 609.066 Sub. 2.

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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.

When possible, less than lethal force devices such as a Sage or beanbag type rounds from a kinetic energy projectile 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.

i. Chemical Agents

The use of chemical agents shall be governed by the provisions governing reasonable force. Only chemical agents which are approved weapons shall be used.

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.

Officers shall exercise due care to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.

Chemical agents shall not be applied to any person for the purpose of effecting punishment.

j. Electronic Compliance Devices/Tasers

Taser compliance devices must be approved by the Chief of Police and officers must be trained in their use. Our policy is to utilize the Taser device rather than engage in potentially dangerous hand-to-hand combat or "wrestling" to affect the arrest as cited in Subd. d of this order.

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.

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.

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

Tasers should not be demonstrated on those 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 whom are combative or resisting arrest and where, had the suspect been an adult, the use of force would be justified.

If practical, officers on scene should evaluate the effectiveness of the Taser and each subsequent application to determine if other tactical responses would be a better response to resistance. Repeated or multiple Taser applications should be avoided if previous applications have failed to subdue the subject long enough to effectively secure them.

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

Officers shall collect the cartridge, darts and a sample of afids if available and place these items into evidence.

Tasers that have been used in incidents, other than training or testing, where the current flow has been activated and applied will be taken out of service at the conclusion of the incident until such time as the activation data can be downloaded from the taser unit.

k. **Miscellaneous Provisions**

A police officer may also discharge a weapon during range practice or when necessary to destroy a dangerous or injured animal, pursuant to requirements of City Ordinances and State Law governing destruction of animals.

An annual recertification of the Taser and knowledge and competency in the Sage gun is required.

Except for maintenance, training, in the performance of potentially threatening duties, or in designated areas, police officers shall not draw or exhibit a firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance with this policy.

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.

I. Training

“Use of Force/Response to Resistance” and “Deadly Force” training will be conducted in accordance with the State Statute and department orders. Training will be conducted by qualified instructors and will include the review of State Statutes, department orders and approved training methods.

m. Authorized Weapons

- Firearms (See Order 107)
- Knife
- Aerosols (see Section i)
- Baton/ASP Expandable Baton (any length)
- “Less lethal” type devices
- X26 Taser
- Sage
- Any other weapon approved by the Chief of Police
- 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.

n. Medical treatment after a less lethal or non lethal device is Utilized.

Less lethal

When a subject is struck with a less lethal Sage kinetic energy round, a medical exam at a hospital is required treatment.

Non lethal

Anyone who requests medical attention after the use of the Taser should be transported to a medical facility and evaluated. Anyone who does not appear to be recovering properly or those who are exhibiting signs of uncontrolled agitation, hyperactivity, or obvious

signs of drug induced hyper activity should be evaluated at a medical facility.

An officer/individual of the same sex shall remove the darts from a subject, and place them into a biohazard collection/evidence container. When a subject has been hit in a soft tissue area, the darts should be removed by medical personnel.

o. **Reporting**

Officers who must apply physical force involving the use of any Intermediate weapon or above as found in the "Use of Force Continuum" shall articulate the use in a written report. This report must articulate each specific use of the intermediate weapon or above during the incident.

A Taser/ Sage after use report will be completed by the officer in addition to the written report which is required under this policy. This report is only required if the sage or Taser are deployed and physical contact is made to an individual.

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.

Violations of use of force will be evaluated for appropriate discipline by the Chief of Police or designee.