

GENERAL ORDER 4

USE OF FORCE

MINN STAT 626.8452

REV 1/28/2021

PURPOSE

It is the policy of the Lowry 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.

POLICY

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 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 and part-time peace officers engaged in the discharge of official duties.

Section (4) Procedure, paragraphs (g.1-2), are effective March 1, 2021, and thereafter.

4.1 DEFINITIONS

a) ***Bodily Harm***: Physical pain or injury.

b) ***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.

c) ***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.

d) ***De-Escalation***: Taking action or communicating verbally or non-verbally during a potential force encounter in 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.

e) ***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.

f) ***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.

Chemical Agents: Chemical Agents means chemical irritants, including: CN/Chloracetophenone, CS/Orthochlorobenzalmalononitrile, OC/Oleoresin Capsicum, or combinations of the aforementioned chemical agents. Additionally, Chemical Agents are broken down into two categories: Aerosol Irritant Projectors (AIP's), and Tactical Gas. AIP's include handheld deployment devices commonly referred to as mace. Tactical Gas includes gas which is deployed by firearm, specialized hand-thrown canister, or other hand-operated tactical chemical agents.

Contact Weapons: Contact weapons means all 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. Contact weapons include, but are not limited to, police batons.

Electronic Incapacitation Device: Electronic incapacitation device means the use of the M26 and X26 and X26-P Advanced Taser.

BolaWrap 100: The BolaWrap 100 is a remote restraint device used for immobilizing and controlling resistive / non-compliant persons and persons with known or suspected mental health issues. The purpose of this device is to facilitate a safe and effective response to minimize injury to suspects, subjects, and officers.

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

PROCEDURES

4.2 APPLICATION OF FORCE

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.
4. All uses of force shall be documented and investigated pursuant to this agency's policies.

4.2.1 DUTY

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.

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.

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.

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

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.

4.3 DEADLY FORCE

4.3.1 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 using 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. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
 4. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.

4.3.2 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 regarding the proper use of deadly force and to the agency's policies and State statutes regarding 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.
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.

4.3.3 RECORDKEEPING REQUIREMENTS

The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.

4.4 USE OF NON-DEADLY FORCE

4.4.1 PARAMETERS FOR USE OF NON-DEADLY FORCE

A. It shall be the policy of this department, unless expressly negated elsewhere, to accord officer's discretion in the use of non-deadly force to the extent permitted by Minnesota Statute 609.06, which permits police officers to use reasonable force:

1. In effecting a lawful arrest; or
2. In the execution of a legal process; or
3. In enforcing an order of the court; or
4. In effecting any other duty imposed on the officer by law.
5. In protection of oneself or another.

B. In determining the degree of force, which is reasonable under the circumstances, officers shall consider:

1. The severity of the crime at issue.
2. Whether the suspect posed an immediate threat to the safety of the officers or others; and
3. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

4.4.2 NON-DEADLY FORCE WEAPONS AND METHODS

A. Officers shall carry and use only approved weapons, as defined in section 4.1, 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 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 weapon prior to its use.

B. Officers shall use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision shall not be construed, however, to require officers to first attempt using types and degrees of force which reasonably appear to be inadequate to accomplish the intended objective.

- C. 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.
- D. Officers shall not use choke holds to subdue or control individuals unless the use of deadly force is authorized, and the technique appears reasonably necessary to carry out lawful objectives.
- E. At the point where a resistive subject is under control and has ceased to resist, Officers shall de-escalate their use of force to physical restraint for control purposes only.
- F. Any force technique employed by an officer of this department must conform to the policies and procedures governing the use of force which have been established by this department.
- G. No Officer shall modify, alter, or cause to be altered an approved weapon in their possession or control without prior approval from the Chief of Police.
- H. When an individual offers only passive resistance to arrest, an officer shall bodily remove and transport such individuals with as much regard to the individual's safety and welfare as is reasonable, practical, and possible.
- I. The following non-deadly force weapons are authorized:
 - 1. Contact weapons as previously defined in 4.1.
 - 2. Chemical Agents as previously defined in 4.1.
 - 3. Electronic Incapacitation Devices as previously defined in 4.1.
 - 4. BolaWrap 100 as previously defined in 4.1.
 - 5. Weapon as previously defined in 4.1.
- J. An Officer may announce their intention to use only that type and degree of force which may reasonably be necessary under the circumstances. This provision shall not be construed to authorize or endorse the use of discourteous, abusive, or unprofessional language.

4.5 USE OF CONTACT WEAPONS

- A. Contact weapons shall be used only where efforts involving the use of less force have failed, or where it reasonably appears that such methods would be ineffective if attempted. Contact weapons may be used only in the following manner:
 - (1) To ward off blows or kicks from another person; or
 - (2) To strike another for the purpose of rendering that person temporarily incapacitated;
or
 - (3) To restrain persons; or

- (4) In appropriate crowd control situations, to direct and control the movement of persons, or as a barricade.
- 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. These areas include the head, neck, armpits, and spine.
 - C. Officers striking another person with a contact 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 upper torso.
 - D. Any person struck with a Contact Weapon should, in appropriate situations, be taken to a medical facility for attention, and a report must be submitted pursuant to sections 4.11, of this policy.

4.6 AEROSOL IRRITANT PROJECTORS (AIP'S)

- A. The use of AIP's shall be governed by the provisions governing non-deadly force. Only AIP's which are approved weapons, as previously defined in 4.1 shall be used.
- B. Officers shall exercise due care to ensure that only intended persons are sprayed or otherwise subject to the application of AIP's.
- C. AIP's shall not be applied to any person for the purpose of effecting punishment.
- D. First aid or medical attention shall be provided to all persons sprayed with AIP's.
- E. AIP's shall be used only in accordance with manufacturer's recommendations for usage and in accordance with the Officer's training.
- F. Whenever an AIP is used upon another person, the Officer must make a report in accordance with section 4.11 of this policy.

4.7 USE OF TACTICAL GAS

Tactical Gas shall only be used on the order of the Chief of Police or his designee except under direction of SWAT Command. When tactical gas is used and people are incapacitated because of the use, the persons should in appropriate cases be taken to a medical facility for proper attention. In addition, a report must be submitted in accordance with section 4.11 of this policy.

4.8 USE OF HANDCUFFS

While in the process of effecting lawful objectives, an officer should place handcuffs on any individual whom the officer reasonably believes may become violent, attempt to escape, or pose a danger to themselves, the officer, or others. Any individual whom the officer arrests and

intends to transport, must be handcuffed prior to being transported. Also, prior to transportation of any handcuffed person, the officer will check the handcuffs for tightness, make sure they are double locked, and document this information in their report. This policy is for the safety of the officer, the arrested individual, and those who are in the immediate area.

4.9 SPECIALTY IMPACT MUNITIONS

Due to the increased number of law enforcement confrontations with dangerous violent offenders who did not meet the criteria for immediate deployment of deadly force, Specialty Munitions, or Low Lethality Munitions, were created as an alternative force method. These munitions allow for a broader range of choices in the force continuum, while reducing the risk to officers and suspects during potentially dangerous physical contact or confrontation.

4.9.1 DEFINITIONS

Specialty Impact Munitions: Specialty Impact Munitions means a projectile which is fired from a 12-gauge shotgun or 37 mm or 40 mm launcher and is by design intended to be non-lethal when used during non-deadly force situations and applied to appropriate corresponding target areas.

4.9.2 APPROVED MUNITIONS

The following Specialty Impact Munitions are authorized by the Lowry Police Department: *Drag Stabilized sock round (12 Ga.) - This projectile is fired from a 12 Ga. shotgun and has a maximum effective range of approximately 100 feet. This round was developed for direct fire application and travels at about 300 fps.*

4.9.3 APPLICATION

Specialty Impact Munitions may be deployed whenever a situation arises where the use of other force techniques exposes the officer, the subject, or the public to unnecessary danger, or when it appears that the other force techniques may have been ineffective or excessive.

The use of Specialty Impact Munitions can be used with the direct approval by the Chief of Police, or by Officers who have received specific training in the policy, procedure, and deployment of these munitions. Officer(s) deploying less lethal munitions must have a cover Officer present to provide lethal force if necessary.

Specialty Impact Munitions will only be utilized in accordance with State Law and Department Policy regarding the application of force upon another person.

Because these munitions deliver the same or less kinetic energy than a typical baton blow, they are placed on the same position on the use of force continuum as the handheld baton.

4.9.4 APPROVED TARGET AREAS AND DEPLOYMENT

Specialty impact munitions should be directed at the following primary target areas: Arms, legs, buttocks, and lower abdomen. The deploying officer may consider additional target areas, (such as the torso), when the efforts to subdue the subject using the primary target areas are ineffective or when addressing primary target areas would be too dangerous for officers under the circumstances.

Specialty Impact Munitions should be deployed with the following considerations:

- At distances of less than ten (10) feet, extreme caution should be exercised prior to deployment due to the high possibility of fatal outcome.
- At distances of ten (10) to twenty (20) feet, avoid the head, neck, spleen, liver, and kidney areas.
- At distances of twenty (20) to forty (40) feet, the target area should be center mass.

4.9.5 FIRST AID

All individuals who have had a Specialty Impact Muniton deployed upon their person will be immediately afforded appropriate medical attention.

4.9.6 REPORTING

All deployments of Specialty Impact Munitions are classified as Use of Force incidents and are subject to the reporting requirements set forth in General Order 4.10 Use of Force Reporting.

4.10 ELECTRONIC INCAPACITATION DEVICES

The Advanced Taser is a Conducted Energy Weapon: an electronic incapacitation device. It is a defensive weapon, which is listed in the Use of Force Continuum at the same level as Chemical Agents. The Advanced Taser is:

- A. A handheld, laser aimed, battery operated, less than lethal conducted energy Weapon. Voltage is applied to a subject by two darts connected to conducting wires propelled from a charged cartridge of compressed nitrogen or from direct contact.
- B. The unit develops 50,000 volts of electricity which when applied, affects the neuromuscular system, causing involuntary, temporary muscle contractions. The contractions will incapacitate so they can be placed under the control of a law enforcement officer.
- C. The Advanced Taser is considered a less than lethal/minimal impact weapon likely to have fewer lasting effects on a subject than chemical agents and contact weapons.

The Advanced Taser is considered an approved electronic device for use by trained Lowry Police Department members.

4.10.1 ADVANCED TASER APPLICATION

- A. The Advanced Taser may be used in situations where no-deadly or deadly force is justified to control aggressive and/or combative subjects, thereby reducing the likelihood of injury to officers and subjects.
- B. The most effective range is between 12 to 18 feet. The maximum range is 21 feet.
- C. The Advanced Taser should be deployed by deploying probes and then direct touch/stun contact when physical confrontations are in progress.

4.10.2 SAFETY CONSIDERATION

- A. The deploying officer shall inform other officers of the presence and/or planned use of the Advanced Taser as tactically prudent and practical, so the Advanced Taser shot is not mistaken for a gunshot.
- B. The Advanced Taser will cycle for a period of 5 seconds but may be turned off sooner.
- C. Officers should move in, restrain, and control the subject as soon as possible.
- D. The Advanced Taser should not be used when the subject is in danger of falling from a significant height.
- E. The Advanced Taser should not be used when a subject is in water where drowning is a possibility.
- F. Removed darts are considered a biohazard and must be handled appropriately. This includes the use of gloves and designated biohazard evidentiary containers by department personnel.
- G. Officers are to make every effort to avoid dart placement in the face, soft tissue areas which for the purpose of this policy are determined to be the eyes, neck area, groin, or genital area.
Officers must not overlook the aspect of injury that may result in falling from a standing position after deployment of the Advanced Taser.

4.10.3 RESTRICTED USES

- A. The Advanced Taser shall not be used on subjects exhibiting compliant or passive resistive behavior.
- B. The Advanced Taser shall not be used on a restrained individual unless the actions of the subject present an immediate threat of bodily harm to themselves or any other person.
- C. The Advanced Taser shall not be used when the presence of flammable fumes, liquids or gases are known or are likely.
- D. The Advanced Taser should not be used on women known to be pregnant unless other means short of lethal force have been used.

4.10.4 MEDICAL TREATMENT

- A. When the Advanced Taser has been used on a subject, officers must offer medical treatment to the subject.
- B. Officers and/or Medical Personnel must remove darts that have penetrated soft tissue areas.

- C. An officer/individual of the same sex shall remove the darts from a subject when or where practical.

4.10.5 DOCUMENTATION

- A. Depending on the penetration and location of the darts and the sex of the subject, officers must make every reasonable effort to have any dart impact areas on the subject's person photographed. If the subject is of the opposite sex of the officer taking the photographs, same sex arrangements must be made.
- B. Officers are required to fully document the Advanced Taser use and results, in a narrative report in accordance with the department's Use of Force Policy.
- C. Officers must also complete an "Advanced Taser X26P/ M26 Use Report" form for the Lowry Police Department case file and statistical purposes.
- D. Officers shall log the expended cartridge into evidence and attempt to collect several of the aphids and keep with the expended cartridge.
- E. Probes which have penetrated the body should be treated as biohazard "sharps". Probes should be carefully placed, sharp tip first, back into the expended cartridge box and secured with tape and placed into evidence.

4.10.6 TRAINING

- A. All officers that wish to carry and deploy the Advanced Taser must be trained by a Certified Advanced Taser trainer.
- B. Trained Officers must qualify once a year with the Advanced Taser if they wish to carry and/or deploy the Advanced Taser.

4.10.7 USE OF AN ADVANCED TASER ON VICIOUS ANIMALS

The full effect of an Advanced Taser on animals is not yet proven. However, field deployments have shown effective results and the Advanced Taser has been an effective tool against vicious animals. *Animals have also shown the ability to quickly recover from the effects of the Taser, due to differences in their nervous system. As soon as the Advanced Taser temporarily disables the animal, officers should be prepared to act quickly with control devices or restraints.* Using the Advanced Taser against vicious animals may reduce the need for greater, more injurious force against such animals. Personnel should deploy an Advanced Taser on an animal when other conventional means to control the animal have been exhausted or may be unreasonable. The use of an Advanced Taser on an animal should be based on the intent to provide a safer, more humane, and less traumatic conclusion to the incident.

Officers should be prepared to use other means of justified force if necessary and should use conventional means of animal control if feasible. *Conventional means of controlling the animal (e.g.: control sticks, collars, and cages) should be on hand at the scene, if possible, prior to the use of the Advanced Taser. Personnel should be prepared to apply conventional controls once the Advanced Taser subdues the animal.* An advanced Taser may be deployed on an animal when:

- A. A vicious animal is threatening or is attacking a citizen, an officer, or other animals and the use of other force is not reasonable or may not be desired given the situation.
- B. A vicious animal has threatened or attacked a citizen, an officer, another animal, or has caused a continuing public nuisance and the vicious animal needs to be controlled for the reason of public peace or safety, preservation of property, or other legitimate purpose; and the animal poses an active threat to officers in their efforts to perform their duty. The Advanced Taser will be used to safely facilitate the application of more conventional animal control methods in these situations.
- C. Other sections of this policy that apply to issuance, training/certification, deployment procedures, precautions and duties also apply to this section, although the other sections apply to deployment against persons.
- D. Center mass of the animal should be targeted. Care should be taken to ensure the head and other sensitive areas of the animal are not targeted. It is understood that deployments against vicious animals may be very dynamic in nature and the probes may impact unintentional areas. Procedures for probe removal should take place as outlined in Personnel will take reasonable measures to ensure the animal's welfare is provided for; if probes impact a sensitive area, or it appears the animal's health is in jeopardy. It is generally understood that if personnel acted appropriately, the animal's owner will be responsible for any medical attention needed by the animal. Disputes regarding veterinary care should be referred to the City Attorney.

4.10.8 USE OF THE BOLAWRAP 100

PURPOSE/POLICY

This policy provides guidelines for the issuance and use of BolaWrap 100 devices to minimize injury to suspects, subjects, and officers.

The BolaWrap 100 intended to immobilize and control resistive / non-compliant persons and persons with known or suspected mental health issues. The BolaWrap 100 is a handheld remote restraint device that discharges an eight-foot bola style Kevlar tether to entangle an individual at a range of 10-25 feet.

The following policy guidelines shall be adhered to:

- Only a department approved BolaWrap 100 shall be utilized by personnel.
- A BolaWrap 100 shall be issued to and used only by those personnel who have completed the department's BolaWrap 100 Training Program.
- Personnel authorized to carry a BolaWrap 100 may purchase a department approved BolaWrap 100 for on duty use.
- Personnel authorized to carry a BolaWrap 100, who are issued or using a personally owned BolaWrap 100, shall carry the BolaWrap 100 on their person, in a department approved BolaWrap 100 holster, as specified in the department's BolaWrap 100 Training Program.

- Prior to the use of the BolaWrap 100, whenever practical, personnel shall request a supervisor to the scene.
- Following the use of the BolaWrap 100, personnel shall request a supervisor to the scene.
- Once on scene, the supervisor shall determine whether to immediately remove the Kevlar cord or whether to remove the Kevlar cord at a subsequent time.
- The supervisor shall determine whether transporting the person to a medical facility is necessary to remove the Kevlar cord or to receive medical treatment;
- If the supervisor determines that removal of the Kevlar cord is appropriate on scene, the supervisor or officer shall remove the Kevlar cord using the department issued BolaWrap 100 cutter.

1. Limitations on Use of BolaWrap 100

The BolaWrap 100 should not be used in any situation where there is a reasonably foreseeable likelihood of death or great bodily injury to the suspect, subject, or officer. Whenever practical, the BolaWrap 100 should not be used on the following persons:

- Handcuffed persons;
- Persons detained in a police vehicle;
- Persons detained in a booking or holding cell;
- Persons in control of a motor vehicle;
- Persons in danger of falling or becoming entangled in machinery or heavy equipment, which could result in death or serious bodily injury;
- Persons near flammable or combustible liquids or fumes;
- Persons near any body of water that may present a drowning risk;
- Persons known to be pregnant.

If department personnel feel compelled to use the BolaWrap 100 in any of the above situations, the conduct of the involved personnel shall be evaluated in accordance with the department's Use of Force Policy and sound tactical principles.

2. Verbal Warning

Unless it would compromise officer safety or is impractical under the circumstances, a verbal warning of the intended use of the BolaWrap shall precede the deployment of the device in order to:

- Provide the individual with a reasonable opportunity to voluntarily comply;
- Provide other officers and the public with a warning that the BolaWrap 100 may be deployed.

The fact that a verbal and / or other warning was given or reasons it was not given shall be documented in any related reports.

3. Reporting the use of the BolaWrap 100

The deployment of the BolaWrap 100 shall be documented by the officer and / or supervisor using the department approved BolaWrap 100 Test and Evaluation form. The supervisor shall determine whether further documentation of the incident is necessary, in accordance with department policy. The supervisor shall also determine whether the pellets, cartridge case, or Kevlar cord should be collected as evidence, in accordance with department policy.

4. Personally owned BolaWrap 100

This policy applies to both department issued BolaWrap 100 devices and personally purchased BolaWrap 100 devices. Personally, purchased BolaWrap 100 devices shall be inspected by the department's Weapons Training Unit, in accordance with department policy. Department personnel shall record all personally purchased BolaWrap 100 devices with personnel administration when the devices are purchased or obtained, sold, or disposed of, stolen, or lost.

4.11 USE OF FORCE REPORTING

4.11.1 WRITTEN REPORT ON USE OF FORCE

An Officer using deadly or non-deadly force shall, in all instances, prepare a use of force report in addition to all other reports concerning the matter. Such reports shall be completed within 24 hours of each such incident. The Officer will be required to make a general oral report on the incident to the Chief of Police or his designee within a reasonable period following the incident. The Chief may suspend the application of this provision where an otherwise complete investigation of the incident will be undertaken.

4.11.2 USE OF FORCE REPORT CONTENTS

Write pertinent information in a narrative form. Make sure to include all circumstances surrounding the incident. You should:

- Write chronologically.
- List the cause of your actions, including your suspicions and probable cause.
- Record all factors that contributed to the incident.
- Show the totality of the circumstances.
- Record your statements accurately.
- State your perceptions of the incident based upon your training and experience.
- Be specific about the force you employed, areas the force was directed, and the level of force used in lieu of other force options.
- Detail the debriefing that occurred.
- Record Injuries, including photographs, of both the Officer and suspect injuries.
- List names, addresses, and telephone numbers of all witnesses.

4.11.2.1 USE OF FORCE INVESTIGATION POLICY

Effective Date: 3/21/2017 | Document Number: BCA-1005

POLICY STATEMENT/OBJECTIVE

This policy provides guidelines and sets parameters for Bureau of Criminal Apprehension (BCA) involvement in police use of deadly force investigations. When a law enforcement officer uses force and a citizen dies or is seriously injured, the public expects a thorough investigation regarding the circumstances of the use of force. The BCA conducts criminal investigations of these incidents at the request of other law enforcement agencies and does not conduct internal or administrative inquiries of these actions.

Once requested by another law enforcement agency, it is the BCA's responsibility to conduct an independent, thorough, and unbiased investigation. The BCA will limit any outside agency assistance with the investigation. While the investigation is open and active, the investigative case file and related materials will remain investigative data and will typically only be disseminated to the reviewing prosecutorial authority. The investigative materials and data may also be shared with federal law enforcement related to a review of the incident under federal law.

DEFINITIONS

Officer/Deputy: Since multiple titles such as (Victim, Witness, Suspect) could be given for the law enforcement official that used deadly force against another, the term Officer or Deputy will be used for BCA documentation purposes.

Subject: Since multiple titles such as, Victim, Witness, and Suspect could be given for the person whom the peace officer used force against, the term subject shall be used for BCA documentation purposes.

Public Safety Statement: A public safety statement is a statement provided by involved officers that briefly describes the facts and circumstances so that responding personnel can assess the security of the scene, possible injured parties, possible witnesses, persons who are not currently in custody, and understand the nature of the crime scene.

POLICY

1. Protocols

- a. The BCA will respond to and investigate critical incidents when intentional force is used that results in great bodily harm or death. If a peace officer attempts to use deadly force, but no one is injured the BCA will evaluate each request on a case-by-case basis.

- b. The initial responding agent shall notify the appropriate supervisor of the BCA's response to such a scene. The appropriate supervisor shall ensure the Deputy Superintendent of Investigations is promptly notified with timely and pertinent information.

- c. Frequently, two separate and different investigations may be conducted simultaneously when an agency is investigating criminal activity prior to the deadly force being used. The BCA will conduct the officer involved use of deadly force investigation and the requesting agency or another agency will conduct any other criminal investigations that are required surrounding the use of deadly force incident. The BCA will coordinate with the requesting agency to decide who performs what duties for any overlapping investigative activities.
- d. To avoid overlapping or duplication of investigative activities, requesting agencies are encouraged to delay any agency internal investigation until the independent BCA criminal investigation is complete. This is to avoid any possible *Garrity* issues that could arise.
- e. The requesting agency(s) should designate a primary contact person to liaison with BCA investigative personnel who has sufficient knowledge of the incident to inform responding the responding BCA case agent. In most cases, this person should not be the Chief Law Enforcement Officer (CLEO). The designated person will be the contact for BCA Agent(s) for investigative needs.
- f. Agencies should refrain from asking any questions that relate to the decision to use deadly force or the deadly force incident.
- g. All officers involved or present during the initial incident should be removed from the scene as soon as possible. Involved officers should not confer with each other about the critical incident and should be assigned a monitoring officer from the time of the critical incident until the officer is off duty.
- h. Due to quickly changing scene conditions, agencies should take measures to protect the scene and any possible evidence located at the scene, taking care not to alter the evidence within the scene. This includes but is not limited to leaving emergency vehicles and equipment at the scene.
- i. BCA Agents will determine the amount of BCA resources needed such as crime scene response, interview teams, canvass teams, etc.
- j. BCA Agents should meet with the involved officers and agency CLEO(s) or designated command staff as soon as practical to explain the BCA's investigative process and investigative needs.
- k. BCA Agents should photograph each officer who used deadly force and document any injuries sustained as soon as practical. Officer(s) should be photographed in the same attire they were wearing during the use of deadly force incident.
- l. BCA Agents should obtain a copy of the involved officer's pertinent training records and internal affairs files for inclusion in the case file.
- m. BCA Agents should obtain a copy of the involved agency's use of force policy and any other pertinent policies for inclusion in the case file.

- n. BCA Agents shall attempt to have a voluntary blood toxicology sample collected from the officer(s) who have used deadly force. BCA Agents should have the officer(s) review and sign the BCA Consent to Provide Chemical Test of Blood form should they be willing to give a blood toxicology sample.
- o. If an officer(s) is killed or injured, BCA Agents should work closely with the local agency administration to make notification to the officer(s) family as soon as practical. BCA agents should also work with the agency to assist them in implementing their line of duty death procedures.
- p. If a subject is killed or injured, agents should coordinate with the local agency and should make notification to the subject(s) family as soon as practical. Agents should also explain the investigative process to the family and provide their contact information.
- q. Arrangements should be made to have BCA personnel attend autopsies related to the officer involved use of deadly force investigation whenever practical.
- r. BCA Agents should consult with the county attorney or their designee within the first 24-48 hours of the investigation to share information regarding investigative strategy.
- s. BCA Agents should share officer involved use of deadly force investigative information with the requesting agency CLEO and/or appropriate command staff, on a limited basis, and only if the CLEO was not directly involved in the use of deadly force incident. Information should be shared to enhance the decision-making process for the CLEO, as it relates to the work status of their employees that were involved in the use of deadly force incident, as well as to address any officer safety related training issues. This should include planning for the CLEO and/or the appropriate command staff to view the video of the incident.
- t. At the conclusion of the investigation, the BCA will turn the case file over to county attorney or assigned prosecutorial authority. It is important to note that once the case file has been turned over, the investigation is still active, and frequently there will be additional follow-up conducted.

INTERVIEWS

- a. All interviews conducted as part of the use of deadly force investigation will be digitally recorded and transcribed unless unusual mitigating circumstances exist which prevent recording of the interview.
- b. All interviews conducted with the officer(s) who have used deadly force will be voluntary.
- c. Interviews will be conducted at a time and place determined by BCA Agents and the involved officer and/or their legal representation.

- d. All non-custodial interviews conducted with the officer(s) who have used deadly force will be presented with the BCA Criminal Investigative Warning. This warning should be reviewed with the officer, and they should acknowledge their understanding of the warning.
- e. All custodial interviews conducted with the officer(s) who have used deadly force will be read the *Miranda* warning.
- f. When an agent is taking a statement from an officer who used or attempted to use deadly force in a critical incident and the incident is captured on video or audio recordings the following process should normally take place:
 - i. If the agency has a written policy that explicitly allows the officer to view video prior to providing a statement to the investigating agency, the agent shall permit the agency to administer their policy. The agency shall be permitted to arrange viewing of video if the officer requests to do so under their policy. The agent shall document the viewing of the video in any subsequent voluntary interview.
 - ii. If the agency does not have a written policy governing viewing of video by officers involved in a critical incident or the agency policy defers to the BCA, the following procedures should occur.
 - i. The peace officer will be requested to provide a voluntary interview of the facts and circumstances surrounding the incident.
 - ii. Neither the officer nor their attorney will be permitted to view the video prior to providing a voluntary interview. However, the peace officer may view the video following the voluntary interview if they request to do so to assist in clarifying any portion of their statement. The viewing of the video will be limited to the incident captured on the officer's own dash camera or body worn camera.
 - iii. If the peace officer requests to view the video, they will be afforded an opportunity to do so at the conclusion of the voluntary statement. The agent should plan to show the video as soon as feasible following the statement. BCA personnel should be present for the viewing of the video and the officer's legal representation may be present as well. No other persons other than people needed for technical assistance should be present for the viewing of this video.
 - iv. If multiple cameras from other sources captured the incident, the agent shall determine if additional video should be shown to the involved officer on a case-by-case basis.

- v. At the conclusion of the viewing of this video the peace officer shall be afforded an opportunity to consult privately with their attorney.
 - vi. Once such consultation has occurred, the agent shall provide an opportunity to the involved peace officer to clarify any portions of their statement after viewing the video.
- g. The viewing of videos by witness officers and/or other witnesses will be left to the discretion of the investigative agent and should only be done so if the agent believes it may aid in the investigation. Under no circumstances will the video be shown prior to taking an initial statement from any witnesses.
 - h. BCA Agents may ask officers, subjects, and witnesses to complete a voluntary hand-drawn diagram depicting the layout of a deadly force incident. This drawing should be labeled “Not to Scale”, as spatial memory can be distorted.
 - i. A determination will be made by BCA Agents as to whether witness officer(s) will be interviewed or asked to complete a police report to document the incident. All officer(s) interviewed by the BCA will not normally write a police report, as their interview will act as their report. If a report is required to be written by the involved officer via agency policy, the agent should work with appropriate agency personnel to determine how to proceed. BCA Agents should attempt to conduct all interviews as soon as practical.
 - j. BCA Agents should attempt to canvass the area surrounding the scene for potential witnesses.
 - k. BCA Agents may conduct additional follow-up interviews with officers, subjects and witnesses as deemed necessary.

EVIDENCE

- a. If the BCA is requested to conduct an officer involved use of deadly force investigation, the BCA will become the controlling entity of all evidence associated with the officer involved use of deadly force until the conclusion of the investigation.
- b. Any digital evidence obtained by the BCA in connection with the investigation will be considered evidence in the investigation and should not be disseminated without the permission of the BCA. All digital evidence related to the officer involved use of deadly force such as squad camera video, body camera video, recorded police radio traffic, recorded telephone calls and all other audio/video recordings, whether they reside on

tangible media (DVD, CD, server, data storage device, etc.) or cloud-based storage should become original evidence in their original format when feasible. A copy obtained from a

- c. device, server, cloud-based storage shall serve as the original evidence when obtaining the actual media is not feasible.
- d. It is preferred that involved officer(s) keep their weapons holstered and a BCA Agent(s) will recover the weapon from the officer(s). When feasible, if the weapon used is a long gun or another weapon, the officer(s) should keep the weapon with them until it can be recovered by BCA Agent(s). All weapons should be either holstered or placed on “safe” and should not be unloaded or manipulated in any other way. This process will help to ensure the minimum number of people involved in the chain of custody. All firearms discharged, and all firearms carried but not discharged by the involved officers should be cataloged and documented. It is understood that there may be some circumstances in which it would be beneficial to have the officer’s weapon secured prior to the arrival of a BCA Agent. In these situations, the weapon should be secured in a location where chain of custody can be documented, and the agency should attempt to have as few people as possible in the chain of custody.
- e. All recorded interviews will be transferred to disc or other digital media storage device, labeled as evidence, and later transcribed.
- f. BCA Agents may collect officer(s) complete uniforms and duty gear if later laboratory analysis is foreseeable.
- g. BCA Agents may collect a known DNA Buccal Swab sample from the involved officer(s) if DNA testing of evidence is foreseeable. DNA Buccal Swab samples may be collected through voluntary consent or by application of a search warrant.
- h. BCA Agents should ensure that all clothing and evidence collected by hospital personnel is preserved and collected for all subject(s) and officer(s) transported to the hospital.
- i. If possible, a blood sample should be taken for all officers and subjects prior to any blood transfusion. Blood samples from involved officers will be taken through appropriate consent or proper legal process. If an agency requires a blood sample to be taken as part of their internal process, BCA should still request consent for a sample for the BCA investigative process separate from the administrative sample.
- j. BCA Agents should use the Minnesota Standard Consent Form to Release Health Information for all officers and subjects who receive medical care related to the officer involved use of deadly force incident.

- k. BCA Agents should evaluate what laboratory testing will be needed prior to turning evidence in to the BCA Laboratory or BCA Crime Scene Team. If evidence will not be tested by the BCA Laboratory, that evidence will be stored as evidence within the BCA Investigation Division according to BCA evidence handling procedures.

CRIME SCENE

- a. BCA Agents will determine whether the BCA Crime Scene Team (CST) will be asked to respond to process a crime scene. BCA Agent(s) will communicate with the BCA CST Team Leader to request the CST for scene processing.
- b. All scenes where a subject suffers great bodily harm or death should be processed by the BCA CST in accordance with BCA procedures.
- c. BCA Agents will ensure that the crime scene is fully documented by BCA Agent(s) through photography, videography, and crime scene diagramming.
- d. In most cases agents should apply for a search warrant to process crime scenes on private property. Agents should try to avoid processing crime scenes with only consent approval.
- e. The crime scene should have an exterior perimeter and interior perimeter cordoned off by police tape. Care should be taken to inhibit the public's view of disturbing items within scenes, such as deceased individuals. Agents should ensure a large crime scene perimeter is set to ensure safety of the scene, preservation of the evidence, and limit access or viewing of the scene that may compromise the integrity of the scene.
- f. In most cases involved officers should not be brought back to the crime scene for a walkthrough prior to the officer(s) initial interview. If, on the rare occasion after the initial interview, involved officer(s) are brought back to the scene for a walkthrough, care should be taken to conduct the walkthrough under the same conditions as during the incident and a subsequent follow-up interview should be conducted.
- g. The BCA case agent should meet with the BCA CST Team Leader following the crime scene examination to discuss processing of evidence within the BCA laboratory.

MEDIA

- a. Agencies requesting the BCA to conduct an officer involved use of deadly force investigation should refrain from giving any information to the media until agents and/or the BCA Public Information Officer can consult with the involved agency regarding what information should initially be made public.

- b. If the requesting agency chooses to issue a brief initial press release or media briefing, agencies are asked to direct all further media inquiries to the BCA Public Information Officer.
- c. After the optional initial press release/statement, all further media updates and information should come from the BCA. The BCA will strive to provide as much pertinent information as possible while maintaining the integrity of the investigation.
- d. Typically, the BCA shall issue a statement(s) when information is available to provide additional information on the incident following the initial release of information. Such information will typically include the following:
 - i. A brief preliminary background of information known in the preliminary stages of the investigation.
 - ii. Release of involved officer(s) name, rank and years of service will follow the completion of initial interviews.
 - iii. Identification of the subject either by the BCA or in coordination with the medical examiner if the subject is deceased.
 - iv. The anticipated prosecutorial authority.
 - v. Other facts and information deemed appropriate by the BCA and the DPS Office of Communications.
- e. In accordance with Minnesota law, digital media related to the police deadly force investigation will not be publicly released until the investigation is no longer active in accordance with the Minnesota Data Practices Act and any possible redaction have been completed.

DATA PRACTICES

- a. All data released will be released in accordance with the Minnesota Data Practices Act and accordance with Minnesota Department of Public Safety and Minnesota Bureau of Criminal Apprehension policies.
- b. BCA data practices requests from the media, including non-traditional media outlets, will be directed to the Public Information Office.
- c. The BCA will redact the officer involved use of force investigative case file and provide a redacted copy of the case file to the requesting agency after the case has been adjudicated.

References

1. BCA Criminal Investigation Warning
2. BCA Consent to Provide Chemical Test of Blood or Urine
Minnesota Medical Information Release

4.11.3 REVIEW AND INVESTIGATION

1. The Chief or designee shall review all incidents involving the Use of Force and make additional inquiries, if necessary, to determine whether the use of force was following this policy and other policies that might be relevant to the incident. The Chief or designee shall make an endorsement upon the Use of Force Report and shall include any additional facts not specified in the report that are relevant to the Chief or designee's determination.
2. The Chief shall designate an Officer to review all Use of Force incidents in which the Chief is personally involved, and all use of force reports which the Chief shall personally prepare in accordance with this section. The designee shall review each incident or report in the manner described in the previous section. If necessary, Use of Force Reports in which the Chief of Police is directly involved may be forwarded to the City/County Attorney for review.

4.11.4 CONCLUSION OF FACTS IN USE OF FORCE

The reviewing officer sends a written report of findings, plus conclusions and recommendations to the Chief of Police or designee. The Chief of Police or designee makes a final determination on acceptable performance and justification of use of force. If the results of review and investigation of a force incident indicate a violation of this policy or other policies that might be relevant to the incident, the Chief of Police may call for a review of the policy or policies in question, disciplinary action, additional training, or retraining, and/or a copy of the report and any investigatory data may be forwarded to the City/County Attorney for review. Upon review, the City/County Attorney will give directions on further handling, and directions on dissemination of the report and investigatory data. In all other cases, where no violation is found, all reports shall be treated as confidential, and shall be placed in chronological order in the annual "Use of Force Incidents" file.

4.11.5 REPORTING USES OF FORCE

1. A written report prepared according to departmental procedures will be required in the following situations:
 - a. When a firearm is discharged outside of the firing range. (Excluding recreational or animal destruction incidents.)
 - b. When a firearm is pointed at another person.
 - c. When a use of force results in death or injury.
 - d. When a non-lethal weapon is used on a person.
 - e. When force is used beyond routine escort procedures to control a resisting or combative subject; or
 - f. When any department action results in non-employee injury or death.

The Chief will be immediately contacted and may, at his/her discretion, respond to the scene and will comply with investigative procedures as required by the department in the following situations:

Recordkeeping Requirements

The chief law enforcement officer will maintain records of the agency's compliance with use of force training requirements. PB Rev 10/2011

1. When a firearm is discharged outside of the firing range, excluding routine situations such as destroying animals.
2. When a use of force results in death or serious injury.

4.12 INDEMNIFICATION FOR LETHAL USE OF FORCE

The State of Minnesota will indemnify and defend an Officer the same as if that Officer were an employee of the state, when there is good faith use of authority and use of lethal force off duty and outside of the Officer's jurisdiction, but only when acting on behalf of the citizens of the State of Minnesota and not acting on behalf of a private employer.

4.13 CARRYING OF WEAPONS

All Minnesota POST licensed peace officers may carry a weapon while on or off duty whether in or out of their jurisdiction except for the prohibitions listed in the "Minnesota Conceal and Carry Law."

1. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the officer or the public requiring the use of a device or object that has not been authorized to counter such a threat.
2. With agency approval officers may modify, alter, or cause to be altered an authorized device in his or her possession or control.
3. Protracted force encounters jeopardize the safety of the public, law enforcement personnel and the person being arrested or captured. Accordingly, an officer should use discretion to determine reasonable force options to bring a subject under control. This policy should not be construed to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.
4. An officer may announce their intention to use reasonable force.