
1) PURPOSE

It is the policy of the Bemidji 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.

2) 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.

3) 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 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.
- 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.
- g) ***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.

4) PROCEDURE

a) 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.

b) Duty to Intercede

Regardless of tenure or rank, an officer must intercede when:

1. 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
2. physically or verbally able to do so

c) 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.

d) 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.

e) 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.

f) Use of Certain Types of Force Prohibited

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.

g) 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. 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.

h) Chemical Agents:

1. The use of chemical agents shall be governed by the provisions governing non-deadly force. Only chemical agents which are department approved shall be used. 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. First aid or medical attention shall be provided to all persons sprayed with chemical agents.

i) Conducted Energy Weapons / Tasers:

1. The use of Conducted Energy Weapons (CEW) or Tasers shall be governed by the provisions of non-deadly force. Only CEW's which are department approved shall be used. Officers shall exercise due care to ensure that use is directed toward the intended person subject to the deployment of the CEW. CEW's shall not be applied to any person for the purpose of effecting punishment. First aid or medical attention may be provided to persons subjected to a CEW deployment. Further guidance regarding CEW's is governed by BPD policy #228.

j) Threatening the Use of Force

1. An officer may announce to another his or her intention to use only that type and degree of force which is reasonably necessary under the circumstances. This provision shall not be construed to authorize or endorse the use of discourteous, abusive, or unprofessional language.

k) Display of Firearms:

1. Firearms may be readied for use in situations where it is reasonably anticipated that they may be required to defend the life of the officer or another. A use of force report must be completed when the firearm is drawn and pointed at any person or vehicle.

l) Warning Shots;

1. Warning shots shall not be fired.

m) Discharge of a Firearm

1. The Chief of Police or designee will investigate all incidents in which an officer discharges a department issued firearm, on or off duty, except the following;
 - (1) The discharge of firearms on the department range and all other forms of target practice.
 - (2) Sporting events, to include hunting and organized shooting matches.
 - (3) The test firing of firearms.
 - (4) Shooting animals when required.
2. Immediately following the discharge of a firearm, beyond the above exclusions, it will be the responsibility of the officer(s) involved to notify his/her immediate supervisor. The supervisor will respond to the scene and immediately notify the Chief of Police, if applicable. The following steps will be taken;
 - (1) The scene will be protected as a crime scene and will be protected until cleared by a supervisor.
 - (2) The officer's firearm will be collected and protected for examination.

- (3) When an officer is injured and has discharged his/her firearm, the firearm will be secured by his/her immediate supervisor or other command officer who will make the firearm available for examination.
 - (4) When more than one officer has discharged a firearm in an incident, a ballistics examination of all firearms discharged will be conducted.
3. Reporting Firearms discharges to the state: Minn. Stat. §626.553 requires the Chief of Police to report to the State Commissioner of Public Safety whenever a peace officer discharges a firearm in the course of duty, other than for the exemptions above. Written notification of the incident must be filed within 30 days of the incident with the State Bureau of Criminal Apprehension.

n) Handcuffs;

1. All prisoners who are placed in custodial arrest of a felony, gross misdemeanor, misdemeanor, or probable cause arrest for any of the above, or any person who is forcibly taken into custody for other reasons, shall be handcuffed. The handcuffs will be properly spaced and double-locked behind the back of the prisoner. The following exceptions may apply;
 - (1) The party in custody is physically not able to be handcuffed.
 - (2) The party being transported is a child; unless in the opinion of the officer taking the child into custody handcuffs are warranted to prevent escape.
 - (3)
2. No Officer shall handcuff or restrain a person by:
 - (1) Tying all of a person's limbs together behind a person's back to render the person immobile, or;
 - (2) Securing a person in any way that results in transporting the person face down.

o) Sidearms;

1. All officers of the department are required to carry the sidearm issued by the department while on duty. The following shall apply;
 - (1) Uniformed officers shall carry two magazines in cases provided for that purpose.
 - (2) The service sidearm should be clean and in excellent operating order at all times.
 - (3) Any officer failing to meet the annual qualification will be given thirty days to meet the qualifications under the supervision of a range officer. Failure to shoot a qualifying score after thirty days will result in suspension of that officer without pay until said officer is able to meet the qualifications.
 - (4) In the event that the service sidearm becomes damaged or in need of repair, the sidearm shall be turned in to a supervisor for a temporary replacement while the officer's sidearm is repaired.
 - (5) Carrying of department firearms off duty will be optional, but when firearms are carried off duty they should be out of view of the public. No department firearm shall be worn in any place while consuming alcohol. Officers electing to carry a personal back-up firearm on duty shall qualify with a department firearms instructor. The qualification will consist of an inspection of the firearm, recording of the make, model, and serial number, and a qualifying score on a range officer supervised shoot.

- (6) Displaying firearms while under the influence of alcohol or narcotics will not be tolerated.
- (7) All Department personnel must adhere to any local, state, or federal laws existing or enacted in the future regarding firearms.
- (8) Ammunition will be standard issue loads. No hand loaded ammunition will be used in department issued firearms.

p) Civilian / Non-licensed employees

1. It is understood that uniformed officers are potential targets for assaultive or confrontational persons. This potential extends to civilian employees of the Bemidji Police Department who are also in uniform. The department works to lessen that risk by placing civilian employees in a different color uniform shirt to set them apart from licensed officers, but the risk exists nonetheless. As a means of defending themselves against potential physical attacks, the department may issue civilian employees chemical agents in the form of personal-carry pepper spray.
2. Civilian employees are sometimes called upon to assist in detaining and/or transporting stray dogs for impoundment per city ordinance. Other duties may place a civilian employee in situations where an aggressive dog/animal may be present and attack. The use of pepper spray may be warranted to deter an aggressive or attacking dog (or other animal) and provide a means of escape for the civilian employee.
3. An employee issued pepper spray must complete training from a department use of force instructor and must sign the B.P.D. Civilian Employee Personal-Carry Chemical Agent form.
4. Civilian employees carrying pepper spray must understand that the weapon is to be used solely for self-defense as a means to distract the assailant(s) so the employee can retreat to safety. The chemical agent must never be used to punish an attacker or in an attempt to control a person. The employee must reasonably believe that they are in immediate danger of physical harm and that other means of escape would fail before attempting to use a chemical agent for self-defense.
5. First aid or medical attention shall be provided to all persons sprayed with chemical agents pursuant to this section.

q) 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 basis and designed to;
 - (1) Provide techniques for the use of and reinforce the importance of de-escalation
 - (2) Simulate actual shooting situations and conditions; and
 - (3) 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 / employees 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.

r) Reporting Requirements

1. The chief law enforcement officer or designee will maintain records of the agency's compliance with use of force training requirements.
2. An officer using non-deadly force beyond soft empty-hand techniques shall prepare a use of force report in addition to all other reports concerning the matter.
3. Supervisors shall review all incidents and reports involving the use of force and submit those reports to the Chief of Police. Such reports shall contain the supervisor's evaluation as to whether the officer's actions complied with the provisions of this section.
4. If a supervisor is personally involved in the use of force, or deadly force, the captain shall review and report to the Chief of Police.
5. The city manager will request assistance from an outside agency to review all use of force incidents in which the chief law enforcement officer is personally involved, and all use of force reports which the CLEO will personally prepare in accordance with this section. The designated agency will submit the use of force report, to the city manager who will consult the city or county attorney for further review if needed.
6. If the results of the investigation of a force encounter indicates a violation of this policy or other policies that might be relevant to the incident, then a copy of the report and any investigatory data shall be forwarded to the Chief of Police for review.
7. If the use of a firearm results in serious injury or death to another, the officer may be placed on administrative leave with pay by the chief law enforcement officer. An assignment to administrative leave with pay should not be interpreted to imply or indicate that the officer has acted improperly.

5) REFERENCE AND/OR REVISION

1. REFERENCE:
 - a. MN State Statute 626.8452
 - b. MN State Statute 609.06
 - c. MN State Statute 609.065
 - d. MN State Statute 609.066
 - e. Minnesota POST Board Model Policy – Use of force 12/20/2021
2. REVISION DATE(S):
 - a. 12/03/2020
 - b. 01/13/2022