

FRIDLEY POLICE

# GENERAL ORDER

SUBJECT: <b>Use of Force - General</b>	DATE OF ISSUE	NUMBER:
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## I. PURPOSE

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

Minnesota Statutes § 626.8452	Deadly Force and Firearms Use; Policies and Instruction Required;
Minnesota Statutes § 626.8475	Duty to Intercede and Report;
Minnesota Statutes § 609.06	Authorized Use of Force;
Minnesota Statutes § 609.065	Justifiable Taking of Life; and
Minnesota Statutes § 609.066	Authorized Use of Force by Peace Officers

## II. POLICY

It is the policy of the Fridley Police Department (“department”) 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 IV, Procedure, paragraphs D.1-2, are effective March 1, 2021 and thereafter.

Officers who use excessive or unauthorized force shall be subject to discipline, possible criminal prosecution, and/or civil liability. The use of force is only authorized when it is objectively reasonable and for a lawful purpose. Accordingly, the department will thoroughly review and/or investigate all uses of force by officers to assure compliance with all legal requirements and this policy.

### **III. DEFINITIONS**

#### Actively Resisting

When a subject makes physically evasive movements to interfere with an officer's attempt to control that subject; including bracing, tensing, pulling away, actual or attempted flight, or pushing.

#### 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.

#### Bodily Harm

Physical pain or injury.

#### Chokehold

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. Chokehold 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.

### Critical Firearm Discharge

A discharge of a firearm by a Fridley Police Department officer to the extent such discharges are authorized under this policy (See General Order 101.2, Firearms Policy.) Range and training discharges, and discharges at animals are not included under this section.

### Deadly Force

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

### De-Escalation

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

### Electronic Control Weapon

An incapacitating weapon used for subduing a person by administering an electric shock for the purpose of disrupting superficial voluntary muscle functions. This is an intermediate-range weapon and is classified as non-deadly. The weapon should only be used when an officer is met with a certain degree of resistance or aggression through actions.

### Exigent Circumstances

Those circumstances that would cause a reasonable person to believe that a particular action is necessary to prevent physical harm to an individual, the destruction of relevant evidence, the escape of a suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.

### Force

Any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes the discharge of a firearm, or pointing a firearm at or in the direction of a human being, use of chemical spray, use of impact weapons, use of electronic control weapons (ECW), chokeholds, hard hands, taking of a subject to the ground, or the deployment of a canine. The term does not include escorting or handcuffing a person with minimal or no resistance. Use of

force is lawful if it is **objectively reasonable** under the circumstances to affect an arrest or protect the officer or other person.

### Great Bodily Harm/Serious Physical Injury

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.

### Hard Hand Control

Impact oriented techniques that include knee strikes, elbow strikes, punches, and kicks. Control strikes are used to subdue a subject and include strikes to pressure points such as: the common peroneal (side of the leg), radial nerve (top of the forearm), or brachial plexus origin (side of neck).

- Defensive strikes are used by officers to protect themselves from attack and may include strikes to other areas of the body, including the abdomen or head. Techniques in this category include pressure point controls, stunning or striking actions delivered to a subject's body with the hand, fist, forearm, legs, or feet. These techniques target the major muscle groups and are delivered to create muscle cramping, thereby inhibiting muscle action and allowing the officer to subdue the subject. In extreme cases of self-defense, the officer may need to strike more fragile areas of the body where the potential for injury is greater. The use of neck restraints, chokeholds, or other similar weaponless control techniques, however, are prohibited unless the use of deadly force is authorized.

### Imminent Threat

An officer's reasonable perception of impending danger, death, or serious injury from any action or outcome that may occur during an encounter. A subject may pose an imminent or impending threat even if he or she is not pointing a weapon at the officer but has, for example, a weapon within reach, is running for cover carrying a weapon, or running to a place where the officer has reason to believe a weapon is available.

### Impact Weapons

Department-approved tools that provide a method for gaining control of a subject when lethal force is not justified, but when empty-hand control techniques are not sufficient to effect control.

### Level of Control

The amount of force that an officer uses to gain control over a subject.

### Level of Resistance

The amount of force used by a subject to resist compliance with the lawful order or action of an officer.

### Minnesota Board of Peace Officers Standards and Training (POST)

The state board that regulates peace officer licensing, standards, and training.

### Non-Deadly

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

### Non-Verbal and Verbal Non-Compliance

When a subject expresses his/her intentions not to comply with an officer's directive through verbal and non-verbal means. An officer may encounter statements ranging from pleading to physical threats. Such statements may also include physical gestures, stances, and subconscious mannerisms.

### Objectively Reasonable Force

The degree of force used in effecting an arrest, investigatory stop, or other seizure is evaluated by using an objective, reasonable police officer standard. The reasonableness of each particular use of force will be judged from the perspective of a reasonable officer on the scene, based on the facts and circumstances known to and confronting the officer at the time. (*See, Graham v. Connor*, 490 US 388 (1989).) In determining the appropriate level of force to be used, officers shall evaluate each situation in light of the unique facts and circumstances of each case. Those factors include, but are not limited to, the seriousness of the crime or suspected offense; the level of threat or resistance presented by the subject; the risk or apparent attempt by the subject to escape; and whether the subject was posing an imminent threat to officers or others.

### Chemical Agent Spray

An inflammatory agent that irritates the mucus membranes and eyes to cause tears and pain. It is an intermediate range weapon that is classified as being non-deadly. It should only be used, however, when an officer is met with a certain degree of resistance or aggression through either actions or words.

### Passive Resistance

When a subject does not cooperate with an officer's commands but does not take action to prevent being taken into custody. For example, a protestor who lies down in front of a doorway and must be carried away upon arrest.

### Reasonable Belief

Facts or circumstances that would cause a reasonable, similarly-trained police officer to act or think in a similar manner, under similar circumstances.

### Soft Hand Control

The use of physical strength and skill in defensive tactics to control subjects who are reluctant to be taken into custody and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance pressure points, takedowns, joint locks, and simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive physical resistance.

### Verbal Commands

The use of advice, persuasion, warnings, and or clear directions prior to resorting to actual physical force. In an arrest situation, officers shall, when feasible, give the arrestee simple directions with which the arrestee is encouraged to comply. Verbal commands are the most desirable method of dealing with an arrest situation.

## **IV. PROCEDURES**

### A. General

1. Officers shall use advisements, warnings, verbal persuasion, and verbal instructions when possible before resorting to force.
2. Force shall be de-escalated immediately as resistance decreases.
3. When feasible based on the circumstances, officers will use disengagements; area containment; surveillance; waiting on a subject; summoning reinforcements; and/or calling in specialized units, in order to reduce the need for force and thereby increase officer, suspect and civilian safety.
4. Officers shall allow individuals time to submit to arrest before force is used, wherever possible.

### B. Use of Force Authorization and Limitations

Officers are authorized to use only the amount of force necessary to accomplish lawful objectives. Force may be used:

1. To effect an arrest or prevent the escape from custody of a person whom the officer reasonably believes has committed an offense.
2. To defend the officer or others from the use, or imminent use, of physical force.

3. To take persons into protective custody when authorized by law, such as persons who are a danger to themselves or others, persons incapacitated by alcohol, and/or runaway children.
4. To prevent someone from committing suicide or inflicting serious physical injury upon themselves.
5. To assist a licensed physician or psychologist in providing necessary medical treatment.
6. To control a situation, and to overcome passive or active resistance to a lawful order.
7. To neutralize an unlawful assault and defend themselves or others from harm.

Use of physical force should be discontinued when resistance ceases or when the incident is under control. Justification for the use of force is limited to the facts known or perceived by the officer at the time such force is used, including levels of resistance, suspect's behavioral cues, the number of officers and/or offenders present, and the availability of other options.

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. Force shall never be used to subject a person to torture and/or other cruel or inhumane or degrading treatment or punishment.

All sworn personnel shall receive in-service training on all department use of force policies.

#### C. Verbal Warning

When tactically feasible an officer will identify him/herself as a police officer and issue verbal commands and warnings prior to the use of force. When feasible, an officer will allow the subject an opportunity to comply with the officer's verbal commands. A verbal warning is not required in circumstances where the officer must make a split-second decision, or if the officer reasonably believes that issuing the warning would place the safety of the officer or others in jeopardy.

#### D. 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:
  - 1) can be articulated with specificity by the law enforcement officer;
  - 2) is reasonably likely to occur absent action by the law enforcement officer; and
  - 3) 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 (1) to (3), unless immediately apprehended.

*See, Tennessee v. Garner*, 471 U.S.1, 85 (1985.): The United States Supreme Court ruled that the use of deadly force to prevent the escape of a suspected felon violates the Fourth Amendment prohibition against unreasonable seizure if used against an apparently unarmed, non-violent suspect (the case involved a burglary suspect). The Supreme Court further stated that deadly force may be used against an offender who has attempted or committed an offense involving the infliction or threatened infliction of great bodily harm. Deadly force may not be used against an unarmed, non-violent, property crime offender. The United States Supreme Court decision went on to state that when an officer is justified in the use of deadly force he/she will, if feasible, first give a verbal warning. (Example: "Police, halt").

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 (1) to (3).



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

## E. Deadly Force Restrictions

### 1. Warning Shots Prohibited

Officers are prohibited from discharging their firearms as a means of warning or frightening a person.

### 2. Shooting at or from Moving Vehicles

Officers are prohibited from discharging their firearms at or from a moving vehicle, motorcycle, or bicycle (collectively, “moving vehicle”) unless officers reasonably believe deadly force is necessary to defend the officer or a third person from the use, or imminent use, of deadly force. For purposes of this policy, officers will not discharge their firearms at moving vehicles except under extreme circumstances. Such discharges will be rigorously scrutinized. Officers shall, as a rule, avoid tactics that could place them in a position where a vehicle could be used against them. When confronted with an oncoming, moving vehicle, officers must attempt to move out of its path, when possible, and should generally avoid placing themselves in situations where the use of deadly force is more likely.

### 3. Risk to Innocent Bystanders

When officers are about to discharge their firearms they should be aware of their field of fire, including the backdrop, so as to avoid creating an unnecessary, substantial risk of harm to innocent persons. Officers are prohibited from discharging their firearms when, based on the totality of the circumstances, discharging a firearm would constitute a greater risk to innocent human life than the subject’s actions. *(i.e. discharging a firearm into a crowd, or shooting into a building or through a wall, where the subject is not clearly identified and it is unknown if there are other occupants present.)*

4. Pointing Firearms

Officers are prohibited from drawing and pointing their firearms at or in the direction of a person, absent an objectively reasonable determination that the situation may escalate to the point where deadly force would be authorized under this policy. When it is determined that the use of deadly force is not necessary, officers shall, as soon as practicable, secure or holster their firearms. It is the rule of this department that drawing a firearm and pointing it at a target is considered a use of force and must be documented as such.

5. Use of Firearm to Destroy Animals

Officers may use deadly force against an animal that represents a threat to the officer or to public safety. Whenever possible, officers should seek the permission of their supervisor prior to using deadly force against a dangerous animal.

Deadly force may also be used as a humanitarian measure, where an animal is seriously injured, and humaneness demands its immediate removal from further suffering. Officers should seek the authorization of their supervisor and, whenever practical, authorization from the animal's owner.

6. Use of Department Firearms for Training and Other Purposes

Officers may discharge their firearms for the purpose of practice, firearms training, when on the police range or other established shooting ranges, or when authorized by the Director of Public Safety to participate in law enforcement competition events.

7. Use of Firearms While Under the Influence of Alcohol and/or Drugs

Officers shall not carry or use any firearms or weapons while impaired by alcohol, drugs, or any other medical condition that might interfere with their judgment or proficiency.

8. Security, Storage, and Safe Handling of Firearms

Officers shall be trained in accordance with department guidelines and shall obey all safety rules when handling any firearm or any other weapon. No person other than Fridley Police Department Officers shall be permitted access to any department-owned firearm, with the exception of: police officers from other jurisdictions in the official performance of their duty; for repair or maintenance as approved by

the department; or other circumstances with the express permission of the Director of Public Safety.

Officers will secure and store firearms, both on and off duty, in such a way as to ensure that no unauthorized person will have access to or gain control over the firearm. All department firearms kept at home must be secured in a safe place inaccessible to family members, especially children.

Whenever an officer is in the department and removes his/her handgun or other weapon, the item must not be left in the open and must be secured so that it is not readily accessible to civilians, suspects, victims, or witnesses.

#### F. Use of Non-Deadly Force

Officers shall only use weapons and control techniques that are issued and/or approved for use by the department. The use of non-deadly force shall be limited to defensive and control purposes. Officers shall use only the reasonable amount of force necessary to overcome resistance or accomplish the police task. The use of non-deadly force shall conform to applicable department standards of conduct, policies, procedures, and training. Officers shall not carry any less lethal weapons, or employ any non-deadly techniques, prior to successfully completing the relevant department-approved training for each weapon or technique.

##### 1. Authorization to Use Non-Deadly Force

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

- a. Effecting a lawful arrest; or
- b. The execution of the 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.

*NOTE: Nothing in this policy is intended to discourage officers from using a higher level of force whenever such force is necessary and objectively reasonable under the circumstances.*

##### 2. Use of Certain Types of Force/Non-Deadly Force Restrictions

Except in cases where deadly force is authorized as articulated in Minnesota Statutes § 609.066 to protect officers or another from death or great bodily harm, officers are prohibited from using:

- a. Chokeholds; and/or
- b. Tying all of a person's limbs together behind a person's back to render the person immobile; and/or
- c. Securing a person in a way that results in transporting the person face down in a vehicle; and/or
- d. Any strike with an impact weapon or object to a person's head or neck; and/or
- e. Any use of flashlights, radios, or any other items not issued or trained specifically as defensive weapons.

In limited circumstances when a confrontation escalates suddenly and unpredictably, however, an officer may use any means or device at hand such as a flashlight, radio, and other issued equipment, to defend themselves, another person, or to bring a situation under control. This decision should be based on the circumstances surrounding the officer at the time, if the officer determines it was reasonably necessary to do so, as long as the level of defensive action is objectively reasonable given the existing circumstances.

- f. Force shall not be used against persons in handcuffs, except as objectively reasonable to prevent imminent bodily harm to the officer or another person or persons, to prevent attempted escape, or, as objectively reasonable, where physical removal is necessary to overcome passive resistance.
- g. Non-deadly measures must be considered by the officer prior to applying these measures.

### 3. Duty to Intercede

- a. Regardless of tenure or rank, an officer must intercede when:
  - 1) Present and observing another officer using force in violation of Minnesota Statutes § 609.066, Subdivision

2, or otherwise beyond that which is objectively reasonable under the circumstances; and

2) Physically or verbally able to do so.

- b. Retaliation against any officer who intervenes against excessive use of force, reports misconduct, or cooperates in an internal investigation is prohibited.

4. 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 Director of Public Safety.

5. De-escalation

- a. 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.
- b. 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.

6. Impact Weapons

Authorized impact weapons may be used only when an officer is confronted with actual or imminent active aggression against him/herself or another person. (Refer to General Order 101.5 for specifics regarding the authorized use of an impact weapon.)

The use of a baton or similar instrument to strike a blow to a subject's arms or legs will be considered use of non-deadly force. The use of any such items to intentionally strike a subject's head or neck is prohibited except where deadly force is authorized by this policy.

7. Chemical Agent Spray

Authorized chemical agent spray is an alternative to physical control techniques and the use of other intermediate weapons. As with any other use of force, however, chemical agent spray must not be used

indiscriminately or without justification. Officers must be able to articulate the reason(s) the subject was sprayed with chemical agent spray.

Chemical agent spray shall be utilized as issued and authorized to prevent injury to the subject(s), officers, and others. (Refer to General Order 101.4 for specifics regarding the authorized use of a chemical agent spray.)

8. Electronic Control Weapon (ECW)

An Electronic Control Weapon (i.e., TASER®) is authorized for use when other non-deadly options have been ineffective, or when it reasonably appears that such options will be ineffective in subduing the subject. ECWs shall only be used in situations where the subject is actively resisting or attempting to avoid arrest by escape and poses an imminent threat to the safety of him/herself, another person, or the officer. (Refer to General Order 101.3 for specifics regarding the authorized use of an electronic control weapons.)

G. Training and Qualifications

In addition to training required for firearms qualification (Refer to the General Order 101.2 for specifics regarding the authorized use of firearms), officers shall receive department authorized training designed to simulate actual situations and conditions and, as otherwise necessary, to enhance officers' discretion and judgment in using deadly and non-deadly force in accordance with this policy.

1. All training, including remedial training, will be documented.
2. All officers shall, at least annually, receive in-service training for all lethal weapons and training in the department's Use of Force policy and related case law updates. All officers qualified in the use of impact weapons, chemical agent spray, electronic control weapons, and control techniques shall train and re-qualify on such weapons or techniques under the instruction of an instructor annually and in compliance with POST requirements.
3. Training and proficiency results for any authorized weapon will be documented in the training files. Officers must demonstrate proficiency with weapons in compliance with POST requirements. 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.

4. In addition, training shall be provided on a regular and periodic basis and designed to:
  - a. Provide techniques for the use of force 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.
5. 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 department's policies and state statutes with regard to such force. Such training and instruction shall continue on an annual basis.
6. All officers who fail to demonstrate the required proficiency with department issued weapons shall receive remedial training. Remedial instruction for department issued firearms shall follow the department's Firearms policy (General Order 101.2).
7. An officer failing to demonstrate proficiency with a weapon shall not return to duty with that weapon until such time as proficiency is demonstrated and documented.
8. Only officers demonstrating proficiency in the use of department authorized weapons shall be approved to carry such weapons.
9. Officers will carry and use only authorized devices unless circumstance 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.
10. With department approval, officers may modify, alter or cause to be altered an authorized device in their possession or control.

#### H. Provide Medical Aid

1. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to an individual who has visible injuries, complains of being injured, or requests medical services, and/or arranging for transportation to an emergency medical facility.
2. Officers shall be trained in proper treatment procedures for persons exposed to chemical agent sprays and the effects of non-deadly force. If the person is offered and/or refuses treatment, this refusal shall be

recorded in the police report, along with all relevant information. In addition, the officer will also notify their supervisor as soon as practical. Photographs of injuries should be taken when practical.

I. Use of Force Reporting

J. Recordkeeping Requirements

The Director of Public Safety shall maintain records of the department's compliance with use of force training requirements.