

Use of Force

300.1 PURPOSE AND SCOPE

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

- Minn. Stat. § 626.8452, Deadly Force and Firearms Use
- Minn. Stat. § 626.8475, Duty to Intercede and Report
- Minn. Stat. § 609.06, Authorized Use of Force
- Minn. Stat. § 609.065, Justifiable Taking of Life
- Minn. Stat. § 609.066, Authorized Use of Force by Peace Officers

The primary purpose of this policy is to ensure officers respect the sanctity of every human life when exercising their lawful authority to use force under Minnesota law. Minnesota statute grants officers the authority to use force; however, use of force shall never be considered routine. In situations where officers are justified in using force, they shall do so with the utmost restraint while upholding the department's core values of service, integrity, compassion, respect, and innovation. In accordance with these values, officers must act in ways to preserve human life, avoid unnecessary use of force, and take action to minimize the amount of force used while protecting themselves and the public.

300.1.1 DEFINITIONS

Definitions related to this policy include:

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
- (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

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.

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.

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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, advisement, warnings, verbal persuasion, and tactical repositioning.

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.

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.

300.2 POLICY

It is the policy of the Rochester Police 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 themselves.

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

300.2.1 DUTY TO INTERCEDE AND REPORT

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

- (a) Present and observing another officer using force in violation of Minn. Stat. § 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances
- (b) Physically or verbally able to do so

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Rochester police officers have a duty to intervene and stop uses of force by fellow officers that violate applicable law or department policy. Any employee having observed an officer about to use force that may be illegal, unnecessary, or excessive, absent extraordinary circumstances, must do whatever they can to interrupt the flow of events even before a violation of law or policy occurs. Officers must protect the public and their fellow officers by recognizing when verbal or physical intervention is necessary to prevent an officer from using force that is otherwise illegal or excessive.

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident to a supervisor as soon as possible. In addition, within 24 hours of the observed use of the excessive force, the officer shall report the incident in writing to the chief law enforcement officer of the agency that employs the reporting officer.

300.3 USE OF FORCE PROCEDURE

Rochester police officers shall comply with the following general provisions:

- (a) Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- (b) 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.
- (c) 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.
- (d) All uses of force shall be documented and investigated pursuant to this agency's policies.

300.3.1 DE-ESCALATION

The goal of every Rochester police officer should be to resolve all incidents without the use of force. In consideration of this goal, officers shall:

- (a) 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.

When reasonable, the development of a tactical plan prior to arriving at an incident location can help establish communication, slow momentum, and work in favor of de-escalating a potential volatile situation. Accessing risks, assembling resources and equipment, and coordinating

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approaches are particularly effective tactics when responding to persons in crisis and those who may have mental, physical, emotional, or intellectual disabilities

300.3.2 USE OF FORCE OTHER THAN DEADLY FORCE

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 (Minn. Stat. § 609.06 and Minn. Stat. § 629.33) :

- (a) In effecting a lawful arrest.
- (b) In the execution of a legal process.
- (c) In enforcing an order of the court.
- (d) In executing any other duty imposed by law.
- (e) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.
- (f) In restraining a person with a mental illness or a person with a developmental disability from self-injury or injury to another.
- (g) In self defense or defense of another.

An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance. However, officers shall be aware that in some instances retreat may be the best tactical decision to ensure officer safety as well as the safety of the public.

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The effects of suspected drug or alcohol use.
- (e) The individual's mental state or capacity.
- (f) The individual's ability to understand and comply with officer commands.

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- (g) Proximity of weapons or dangerous improvised devices. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the officer.
- (k) Potential for injury to officers, suspects, and others.
- (l) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (p) Prior contacts with the individual or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.3.4 CONTROL TECHNIQUES

Control techniques utilizing pain compliance may be effective in controlling a physically or actively resisting individual. Officers may only apply control techniques for which they have successfully completed department-approved training. Officers utilizing any control techniques to gain compliance should consider:

- (a) The degree to which the application of the technique may be controlled given the level of resistance.
- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person has been given sufficient opportunity to comply with lawful commands before using additional force.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.5 RESTRAINT HOLDS

Except in cases where deadly force is authorized to protect an officer or another from death or great bodily harm (Minn. Stat. § 609.066), the use of a choke hold restraint is prohibited. Whenever a choke hold is used, an ambulance shall be requested without delay and supervisor notified. Officers shall closely monitor the subject until released to medical care. Once medically cleared, officers shall continue to monitor and evaluate the subject's condition during subsequent transport. Less than lethal measures must be considered by the officer prior to the application of a choke hold.

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Officers are prohibited from using the following types of restraints:

- (a) Tying all of a person's limbs together behind a person's back to render the person immobile.
- (b) Intentionally securing a person in a way that results in transporting the person face down in a vehicle.

300.3.6 USE OF FORCE TO SEIZE EVIDENCE

Officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers shall not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Rochester Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified only 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 (Minn. Stat. § 609.066):

- (a) To protect the officer or another from death or great bodily harm.
- (b) To effect the arrest or capture, or prevent the escape, of an individual whom the 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 unless immediately apprehended.

In both scenarios, the use of deadly force is only authorized provided that the threat (Minn. Stat. § 609.066):

- Can be articulated with specificity.
- Is reasonably likely to occur absent action by the officer.
- Must be addressed through the use of deadly force without unreasonable delay.

However, an officer shall not use deadly force against a person whose actions are a threat solely to themselves or property unless the person poses an imminent danger of death or serious physical injury to the officer or others in close proximity (Minn. Stat. § 609.066).

300.4.1 MOVING VEHICLES

Shots fired at or from a moving vehicle involve additional considerations and risks.

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When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the Department may require the completion of additional report forms, as specified in department policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS TO SUPERVISORS

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of the conducted energy device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

300.5.2 STATE REPORTING REQUIREMENTS

The Chief of Police shall maintain records of the Rochester Police Department's compliance with use of force training requirements. In addition, the department shall provide for:

- (a) The filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).

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- (b) The collection and submission of data as required by Minn. Stat. § 626.8457 and consistent with the use of force reporting requirements as determined by POST (Minn. Stat. § 626.8457).

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain, or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until the individual can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- (a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.

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- (c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 - 1. The content of the interview should not be summarized or included in any related criminal charges.
 - 2. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 - 1. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the individual may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should notify the chain of command.
- (h) Evaluate the circumstances surrounding the incident and notify the chain of command if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

300.7.1 CHAIN OF COMMAND RESPONSIBILITY

The officer's chain of command shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

300.8 TRAINING

Officers shall receive training on this policy, including the learning objectives as provided by the Board of Peace Officer Standards and Training (POST), and demonstrate their knowledge and understanding at least annually (Minn. Stat. § 626.8452, Subd. 3).

Subject to available resources, officers should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

300.8.1 STATE-SPECIFIC TRAINING REQUIREMENTS

Warrior-style training, as defined in Minn. Stat. § 626.8434, whether provided directly by the Department or through a third party, is prohibited (Minn. Stat. § 626.8434).

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300.8.2 TRAINING REQUIREMENTS

Required annual training shall include:

- (a) Legal updates.
- (b) De-escalation tactics, including alternatives to force.
- (c) The duty to intercede.
- (d) The duty to request and/or render medical aid.
- (e) Warning shots (see the Firearms Policy).
- (f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).

300.9 USE OF FORCE ANALYSIS

At least annually, the Professional Standards Manager should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects or case numbers, and should include:

- (a) The identification of any trends in the use of force by members.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.