

I. Purpose

It is the policy of the La Crescent 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.

II. Policy

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.
7. This policy applies to all licensed peace officers and part-time peace officers engaged in the discharge of official duties.

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

III. Definitions

1. **Bodily Harm:** Physical pain or injury.
2. **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.
3. **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.
4. **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.
5. **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.
6. **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.
7. **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.

8. **Weapon:** Any instrument used, or designed to be used, to apply force to the person of another.
9. **Impact Weapons:** 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.
10. **Chemical Agents:** Chemical irritants including: CN/Chloroacetophenone, CS/Orthochlorobenzalmalononitrile, OC/Oleoresin Capsicum, or combinations of the aforementioned chemical agents.
CN/Chloroacetophenone is not an acceptable chemical irritant for use by this police department or the Houston County Sheriff's Office.
11. **Electronic Incapacitation Devices:** A portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current.
Per Minnesota State Statute 624.731 subdivision 2, electronic incapacitation devices do NOT include cattle prods, electric fences, or other electric devices, which are used in agricultural, animal husbandry, or food production activities.

III. Procedure

1. General Provisions:

Use of physical force should be discontinued when resistance ceases or when the incident is under control.

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. 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.

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

2. Duty to Intercede:

Regardless of tenure or rank, an officer must intercede when:
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
Physically or verbally able to do so.

3. 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.

4. 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.

5. Use of 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:

- 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.

6. Use of Certain Types of Force:

Except in cases where deadly force is authorized as articulated in Minnesota State Statute 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.
- d. Less than lethal measures must be considered by the officer - prior to applying these measures.

7. Use of Deadly Force:

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.

- a.** Use of deadly force is justified when one or both of the following apply;
 - i.** To protect the peace officer or another from death or great bodily harm, provided that the threat:
 - ii.** can be articulated with specificity; is reasonably likely to occur absent action by the law enforcement officer; and must be addressed through the use of deadly force without unreasonable delay; or
 - iii.** 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.
- b.** 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 (Ia), items (i) to (iii).
- c.** Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
- d.** In cases where deadly force is authorized, less than lethal measures must be considered first by the officer

8. Training:

- a.** All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
- b.** In addition, training shall be provided on a regular and periodic basis and designed to:
 - Provide techniques for the use of and reinforce the importance of de-escalation
 - Simulate actual shooting situations and conditions; and

Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.

- c. 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.
- d. 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.
- e. 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.
- f. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.

9. Recordkeeping Requirements:

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

10. General Rules Governing Use of Force:

- a. Officers should use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision should 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.
- b. Protracted unarmed control measures, including but not limited to Empty-Hand Control, Escorts, Pain Compliance Holds, Takedowns, Defensive Tactics and Ground Control Techniques 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.
- c. Officers will carry and use only approved weapons, as that term is defined previously, 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 should not be construed as authorizing officers to use a non-approved

weapon where, under the circumstances, it would be feasible to procure approval for use of the particular weapon prior to its use.

- d. No officer will modify, alter, or cause to be altered an approved weapon in his or her possession or control.
- e. Displays of firearms- Firearms may be readied for use in situations where it is reasonably anticipated that they may be required.
- f. Threatening the Use of Force- An officer may announce to another his or her intention to use only that type and degree of force, which may reasonably be necessary under the circumstances. This provision should not be construed to authorize or endorse the use of discourteous, abusive, or unprofessional language.

11. Specific Rules Relating to the Use of Specific Weapons:

- a. Impact Weapons: Impact weapons should 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.
- b. Officers striking another person with an impact weapon should avoid striking, if possible, bodily areas likely to result in serious injury or death unless deadly force is authorized under this section. These areas include the head, neck, throat, groin, armpits, and spine.
- c. Officers striking another person with an impact 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 body.

12. Aerosol Irritant Projectors (Chemical Agents):

- a. The provisions governing non-deadly force will govern the use of chemical agents. Only chemical agents that are approved weapons will be used.
- b. Officers may use the aerosol devices furnished by the department or approved by the (CLEO or Designee) Chief of Police as a defensive weapon in accordance with this policy.
- c. The use of chemical agents shall be considered an alternate action to the use of the baton under appropriate circumstances and is not intended as a replacement for the baton or approved firearms.
- d. The chemical agent projectors are intended for use in those cases wherein the officer is attempting to subdue an attacker or a violently resisting suspect, or under circumstances within the rule of law, which permits the lawful and necessary use of force, and which is best accomplished by the use of the chemical weapon.

- e. The projectors shall not be used indiscriminately or in anticipation prior to a threat of violence or resistance.
- f. The chemical agents shall not be applied to any subject once he or she is secured and properly in custody; the exception would be when the subject is doing serious bodily harm to others or himself/herself.
- g. The application of the agent shall normally be from a range of 3-18 feet. Use at a lesser distance would:
 - i. Render the officer vulnerable to losing the projector.
 - ii. Increase the chance of the officer becoming contaminated.
 - iii. Increase the severity and duration of effects on the subject.
- h. The duration of the application of chemical agents shall be limited to the absolute minimum requirement to effectively control the subject. Normally, this will be a one-second application. In no case should more than three (3) one-second bursts be fired directly into the face of a subject unless the officer is in immediate danger of serious injury.
- i. Chemical agent is not recommended for use against subjects who confine themselves in closed vehicles and refuse to emerge unless it is a last resort action made necessary to prevent injury to the officer or the subject. After use, removal from the vehicle should be made as soon as possible.
- j. The subject upon whom the chemical agent is used must have apparent signs of being alert and in possession of his or her normal reflexes, such as blinking, eye closure, breath holding, and turning away from the applied stream.
- k. The projector will not be used in the immediate vicinity of infants since their respiratory systems are extremely sensitive to all kinds of vapors.
- l. Subjects in custody to which a chemical agent has been applied shall be accorded first aid within thirty (30) minutes from the time of the contamination. Apply large amounts of cool, clear water to contaminated areas. This is considered adequate first aid. Absorption of chemical agents into clothing can cause contamination of normally unexposed areas and should be considered as a condition requiring treatment.

- m. In cases where first aid treatment fails to grant relief, prior to commencing the booking process or anytime thereafter, the subject shall be taken to the nearest emergency hospital for medical care.
- n. Any officer contaminated from using the chemicals to the extent that normal physical functions are impaired, shall receive treatment described above. The officer will notify the CLEO or his/her designee of the injury.
- o. When any officer uses the projector, the reason for using it will be included in their Initial Complaint Report (ICR).
- p. No new projector will be issued until the old projector is turned over the (CLEO or designee) Chief of Police.
- q. The provisions of 609.06 will govern the use of chemical agents as force. Only chemical agents, which are approved weapons, as defined, will be used.
- r. Officers will exercise due care to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.
- s. Chemical agents will not be applied to any person for the purpose of effecting punishment.

13. Electronic Weapons/TASER:

- a. The purpose of this section is to provide guidelines for the use of a Taser, which has been determined to be a highly effective, non-lethal/minimum impact weapon used for gaining compliance of uncooperative subjects.
- b. The Taser is a handheld, battery operated, less-than-lethal conducted energy weapon. Voltage is applied to a subject by two (2) darts connected to conducting wires, which propelled from a cartridge, or by direct contact. The Taser is designed to incapacitate a subject by causing neuromuscular incapacitation (NMI) so that they can be placed under control by law enforcement.
- c. Taser is considered a less-than-lethal/minimum impact weapon likely to have fewer lasting effects on a subject than chemical agents and impact weapons. The Taser is considered an approved electronic weapon for use by trained personnel.
- d. For the purpose of this policy, soft tissue areas are considered to be the neck, head, breast, and groin/genital area.
- e. Sworn officers and other trained personnel may employ the Taser against another person without that person's consent in situations where the use of

reasonable force is authorized consistent with Minnesota State Statute 609.06 and then only in situations where force is justified to control aggressive and/or combative/noncompliant subjects, thereby reducing the likelihood of injury to officers and subjects.

- f. The deploying officer shall inform others of the presence and/or planned use of the Taser when tactically prudent and practical so that the Taser shot is not mistaken for a gunshot.
- g. The Taser will cycle for a period of five (5) seconds. The unit can be cycled longer by continuing to depress the trigger. This can allow the officer to continually keep control of the subject until restrained and in custody.
- h. Officers should make every effort to avoid dart placement in soft tissue areas.
- i. Depending on the penetration, location of the darts, and the subject's sex, officers shall make every reasonable effort to have any dart impact areas on the subject photographed.
- j. The Taser may be employed as a warning device, but only in circumstances justifying the authorized use of force or self-defensive.
- k. The Taser may be used to subdue animals for the purpose of animal control.

14. Medical Treatment for Taser:

- a. When the Taser is used on a subject, when reasonably safe to do so, officers shall offer medical treatment to the subject.
- b. Only authorized medical personnel shall remove darts that have penetrated soft tissue areas. It is recommended that an officer of the same sex remove darts from a subject.
- c. Officers are authorized to remove darts from subject if the darts are in an area of the body not considered to be soft tissue.
- d. Used darts are considered to be a biohazard and shall be handled appropriately. SEE BLOODBORNE PATHOGEN POLICY. Once used upon a subject as force, the expanded cartridge, wire, and darts should be sealed in an evidence bag, labeled as bloodborne pathogen risk, and saved as evidence.

15. Restricted Uses for Taser:

- a. The Taser shall not be used on restrained subjects unless the actions of the person place a potential threat of bodily harm to themselves or any

- other person or are actively damaging property (i.e., kicking out squad windows).
- b. The Taser shall not be used in the presence of flammable fumes, liquids, or gases.
 - c. The Taser should not be used on women known to be pregnant unless all other means short of lethal force have been used.
 - d. The Taser should not be used when the subject is in danger of falling from a significant height.
 - e. The Taser should not be used when a subject is in water where drowning is a possibility.

16. Reporting Requirements:

- a. An officer using deadly or non-deadly force will in all instances, prepare a use of force report in addition to all other reports concerning the incident. The CLEO or a supervisory officer may suspend the application of this provision where an otherwise complete investigation of the incident will be undertaken.
- b. The CLEO or a supervisory officer will review all incidents involving the use of force with all officers involved and make additional inquiries, if necessary, to determine whether the use of force was in compliance with this policy and other policies that might be relevant to the incident. The CLEO or supervisory officer will make an endorsement upon the use of force report, specifying the detail of that determination which will include any additional facts not specified in the report that are relevant to the CLEO's or supervisory officer's determination.
- c. The CLEO will designate an officer to review all use of force incidents in which the CLEO is personally involved, and all use of force reports, which the CLEO will personally prepare in accordance with this section. The officer so designated will review each incident in the manner described in the previous section. The designated officer will submit the use of force report, with his or her endorsement, to the agency's attorney and personnel director for further review.
- d. If the results of review and investigation of a forceful encounter indicate 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 agency's attorney for review, direction on further handling, and directions on dissemination of the report and investigatory data. In all other cases, such reports will be treated as confidential and

will be placed in chronological order in the annual “Use of Force Incidents” file.

- e. If the use of a firearm results in serious injury or death to another, the CLEO will place the officer on leave of absence with pay. This assignment to leave of absence with pay should not be interpreted to imply or indicate that the officer has acted improperly. The officer shall see a person who has knowledge and expertise in post-trauma stress reactions within 48 hours of the shooting.
- f. Malicious assaults or batteries committed by officers constitute gross misconduct. The use of physical force shall be restricted to circumstances specified by law when necessary to accomplish a police task successfully. Whenever an officer, on or off duty, is required to strike or use considerable force against another person, he or she shall immediately call the supervisory officer to the scene or if not practical, contact them as soon as possible following the incident and submit a written report to the CLEO or his/her designee via normal channels. Any injury to suspects to be held in custody that is NOT life threatening will be attended by a physician at Gundersen Lutheran- La Crescent Clinic, Winona Health in Winona, MN, or St. Mary’s Hospital in Rochester, MN. Life threatening injuries will be transported to the nearest emergency medical center.
- g. Under no circumstances may any officer continue to use force, except mere physical restraint, against a subject who has ceased to resist, escape, or otherwise violate the law.
- h. No officer may use more force than is allowed under federal law, state law or department policy.

17. No Defense in Civil Actions:

Minnesota State Statute 609.066 subdivision 3 and sections 609.06, 609.065 and 629.33 may not be used as a defense in a civil action brought by an innocent third party.

18. Minimum Restraint Allowed for Arrest;

Warrant Shown Upon Request:

Minnesota State Statute 629.32- A peace officer making an arrest may not subject the person arrested to any more restraint than is necessary for the arrest and detention. The peace officer shall inform the defendant that the officer is acting under a warrant, and shall show the defendant the warrant if requested to do so. An arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in hand at the time of the arrest, but if the arrested person so requests the warrant must be shown to that person as soon as possible and practicable. A peace officer may

lawfully arrest a person when advised by any other peace officer in the state that a warrant has been issued for that person.

19. When Force May Be Used to Make an Arrest:

Minnesota State Statute 629.33- If a peace officer has informed a defendant that the officer intends to arrest the defendant, and if the defendant then flees or forcibly resists arrest, the officer may use all necessary and lawful means to make the arrest but may not use deadly force unless authorized to do so under section 609.066. After giving notice of the authority and purpose of entry, a peace officer may break open an inner or outer door or window of a dwelling house to execute a warrant if:
The officer is refused admittance;
Entry is necessary for the officer's own liberation; or
Entry is necessary for liberating another person who is being detained in the dwelling house after entering to make an arrest.

20. Justifiable Taking of Life:

The intentional taking of the life of another is not authorized by section 609.06, except, when necessary, in resisting or preventing an offense which the actor reasonable believes exposes the actor or another to great bodily harm or death, or preventing the commission of a felony in the actor's place of abode.