

# WILLMAR POLICE DEPARTMENT

## GENERAL DIRECTIVE: 0002

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**SUBJECT: USE OF FORCE POLICY**

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### **WARNING**

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of higher legal standards of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions.

### **PURPOSE**

The purpose of this policy is to provide police officers with guidelines on the use of deadly and non-deadly force.

It is the policy of the Willmar Police Department to provide officers with guidelines for the use of force and deadly force in accordance with: MN Statute 626.8452 Deadly Force and Firearms Use; Policies and Instruction Required; MN Statute 609.06 Authorized Use of Force; MN Statute 609.065 Justifiable Taking of Life; and MN Statute 609.066 Authorized Use of Force By Peace Officers.

This policy applies to all peace officers engaged in the discharge of official duties.

### **DEFINITIONS**

1. Deadly force or Lethal force – For the purposes of this section, “deadly force” means force, which the actor uses with the purpose of causing, or which the actor should reasonably know creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm, other than a firearm loaded with less lethal munitions and used by a peace officer within the scope of official duties, in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. “Less lethal munitions” means projectiles, which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person. “Peace officer” has the meaning given in section 626.84, subdivision 1.

2. Non-deadly force or non-lethal force – Any force actually used by an officer that does not have the purpose of causing, nor intended to create a substantial risk of causing, death or great bodily harm.
3. Reasonable grounds or reasonably knows or reasonable belief – When facts or circumstances the officer believes, knows or should know, are such as to cause an ordinary and prudent officer, to act or think in a similar manner under similar circumstances.
4. Great bodily harm (serious physical injury) – Bodily injury which creates a high probability of death, or which causes a 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.
5. Weapon – Any instrument used, or designed to be used, to apply force to the person of another.
6. Approved weapon – A device or instrument which an officer has received permission from the department to carry and use in the discharge of the officer's duties, and for which the officer has: (1) obtained training in the technical, mechanical, and physical aspects of the device; and (2) has developed a knowledge and understanding of the law, rules, and regulations regarding the employment of such weapons.
7. Impact weapons – All objects and instruments which are used, or are designed to be used, to apply force to the person of another by coming into physical contact with that person. Impact weapons include, but are not limited to, police batons and flashlights.
8. Less-lethal munitions – Projectiles which are designed to stun temporarily, incapacitate, or cause temporary discomfort to a person. The method of delivery for these munitions can be through the use of a firearm.
9. Electronic Capture/Control Device (ECD) weapons – Devices which deliver an electrical energy charge that is designed to override or affect the central nervous system and take direct control of the skeletal muscles or motor functions of an individual through propelled wires, or direct contact pressure.
10. PIT (Pursuit Intervention Technique) – The use of a motor vehicle involving intentional contact between the officer and suspect vehicle by properly trained officers to shorten time involved in a pursuit and to reduce risks to the public.
11. 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.

## **USE OF FORCE – GENERAL**

### **Policy**

The primary responsibility of this department is to protect the lives of the citizens we serve. To that end, varying degrees of force may be justified depending on the dynamics of a situation. For example, the justifiable force necessary in the defense of the officer's life or in the defense of the life of another person would be unlawful in most other situations. In each individual event, lawful and proper force is restricted to only that force necessary to control and terminate unlawful resistance and to preclude any further physical attack against the police officer or any other person.

### **Rules**

In no instance shall police officers of this department use force other than that necessary to lawfully and properly neutralize an assault or that which is necessary to overcome resistance by a person being taken into custody. Officers should employ the following "Use of Force" continuum when determining proper response levels to "use of force" encounters.

### **MN Statute 626.8475, Duty to Intercede and Report**

Officers must, without regard to rank or tenure, intercede when another officer uses unauthorized deadly force or other force that is objectively unreasonable under the circumstances. This duty exists when an officer is present, makes an observation that triggers an obligation to intervene, and the officer has the physical or verbal ability to do so. This is not only limited to situations where an officer from the same agency is observed to be using excessive force.

In addition, an officer who observes another officer or employee using unauthorized force must submit a written report to the observing officers' CLEO within 24 hours. Failure to intervene or report makes an officer subject to discipline by the POST Board.

Any time an officer finds it necessary to utilize force, whether deadly or non-deadly, or any time an officer makes an arrest, the officer should document the nature of the incident in detail. The report should contain items such as the level of resistance met by the officer, and the level and type of force utilized by the officer.

For all incidents in which force is used, an arrest is made, or a custodial situation exists (72-hour hold, Detox, etc.), a department Response To Resistance (RTR) form must be filled out. This form can be found in Guardian Tracking. The RTR form must be filled out by the officer(s) involved in the incident.

## **"USE OF FORCE" CONTINUUM – LEVELS OF RESISTANCE AND CONTROL**

### **Purpose**

To formulate department policy and prescribe specific procedure regarding the use of force ranging from verbal command up to deadly force.

### Legal Justification

Minnesota State Statute 609.06 deals with the legal levels of force that law enforcement officers may use in the normal course of their duties. It should be emphasized that when consent or an emergency is not present, and there is no probable cause to make an arrest, the non-consensual touching by a police officer may constitute a crime, as well as result in civil liability. When probable cause does exist, criminal and civil liability may still occur if the limits of the law are exceeded.

Protracted force encounters jeopardize the safety of the public, law enforcement personnel, and the person being arrested or captured. Accordingly, an officer should use discretion to determine reasonable force options to bring a subject under control. This policy should not be construed to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.

An officer may announce their intention to use reasonable force.

### Levels of Force

1. In a majority of cases, some level of physical force will be necessary to effect an arrest or to protect others. That amount of physical force may be as low as placing a hand on a subject's shoulder or arm, and directing that subject to place his/her hands behind his/her back for handcuffing. Depending on the level of resistance offered, the officer may use techniques which may escalate to physically pinning the subject to respond to techniques that influence behavior by eliciting pain in order to apply handcuffs using hand/leg strikes, impact weapons, or even the use of a firearm, if the resistance offered is severe. In all cases, Minnesota State Statute 609.06 indicates that only "necessary" force is justified. Any force above that act would be unjustified, and a criminal act by a police officer would then occur.
2. For the purpose of this policy, the use of force will be examined from two perspectives; resistance and control. Both control and resistance can be in the form of verbal directives or physical action; resistance is defined as actions that are directed from the subject towards an officer, while control is directed towards the subject.
  - Resistance is manifested by the subject who attempts to evade an officer's attempts of control. The amount and type of resistance will vary, based on a variety of factors.
  - Control is the force an officer uses to influence or neutralize the unlawful, physical actions of a subject under arrest. Generally, there are six times an officer is justified in using physical control methods:
    1. To stop potentially dangerous and unlawful behavior;

2. To protect the officer or another from injury or death;
  3. To protect a subject from injuring himself/herself;
  4. In the process of effecting lawful arrest, when the subject offers resistance.
  5. In the execution of the legal process or enforcing an order of the court.
  6. Executing any other duty imposed upon the public officer by law.
- Justification of the use of force in the judicial system is measured by two broad standards. First, the officer's use of control methods was initiated by a subject's resistance. Second, the level of physical force used by the officer was "necessary" and not excessive when considering the type of resistance offered by the subject.

## **LEVELS OF RESISTANCE**

Resistance is defined as the force used by a subject under arrest against the officer(s) who is effecting the arrest. Although the resistance offered by a subject is usually physical, the type and amount of resistance an officer meets is determined by the subject's level of intent. The intent of the subject may range from passive resistance to an active, aggressive attack on the officer.

Resistance may be categorized into three (3) broad areas:

1. Verbal dialogue, i.e., denial or threats of resisting arrest.
2. Physical resistive actions, i.e., passive resistance/active resistance.
3. Aggressive acts, i.e., against the officer, often leading to severe physical injury.

The officer's reactions to resistance will be based upon his/her perception of the level of resistance. The officer has been trained to use the necessary amount of force to control a subject offering any level of resistance.

### **Level 1. Psychological Intimidation**

Non-verbal actions, often called body language, often influence an officer's decision on how to approach a subject or what level of force to use if a subject starts to resist an arrest. Non-verbal intimidation actions may include clenching of fists, widening of foot stance, or a blank expression that may warn an officer of the individual's emotional state. These non-verbal intimidation actions often warn an officer of a subject's potential for violence, even when the subject has offered no verbal threats.

However, an officer's reaction to a subject's non-verbal intimidation signals should be used as information to mentally propose the officer's alternatives to possible attack, not as a justification for attack. An officer who reads the now verbal signals and believes that physical control is necessary to prevent a subject from injuring himself/herself, others, or the officer, may initiate action before any overt moves are made by the subject.

## **Level 2. Verbal Non-Compliance**

A subject's dialogue that offers the threat of physical resistance to an officer's commands is not normally considered resistance until he/she physically resists an attack. However, dialogue in the form of threats of physical injury may influence an officer's opinion as to the amount of force needed to effect control. An offender may boast of his/her fighting skill and his/her intention to injure the officer, or assume a fighting stance, such as raised hands or clenched fists. Verbal threats or psychological threats may influence the officer's judgment to attempt either empty hand control, impact weapons, or even firearms if the subject has a weapon or has such great physical skills that threat on life is real.

The reaction to verbal threats made by a subject may differ from officer to officer. An officer's decision of the level of force necessary to control a subject will be based on his/her perception of the threat and the subject's ability to carry out that threat. An additional factor is the officer's knowledge of his/her own physical ability to manage the threat presented. If the officer believes that he/she does not have sufficient skill to establish control with empty hand methods, the officer has been trained to escalate the level of force.

## **Level 3. Passive Resistance**

Passive resistance is the lowest level of physical resistance. The subject resists control through passive, physical actions. At this level the offender never makes any attempt to defeat the physical contact of the officer. Passive resistance is usually in the form of a relaxed or "dead weight" posture intended to make the officer lift, pull, or muscle the subject to establish control.

## **Level 4. Defensive Resistance**

Quite often officers find themselves confronting a suspect who is physically resisting the officer's attempt to control the subject by directing overt, defensive, physical actions. With this level of resistance, the offender attempts to push/pull away in a manner that does not allow the officer to establish control. However, the subject never attempts to strike the officer.

## **Level 5. Active Aggression**

Active aggression is when a suspect attacks the officer to defeat attempts of control. The attack is a physical assault on the officer in which the offender strikes or uses techniques in a manner that may result in injury to the officer or others.

## **Level 6. Deadly Force Assault**

Deadly force is when a subject uses a level of physical force that requires the officer to use, or at least justifies the officer in using, lethal force. At this level officers may not only face resistance to an arrest, but also overt, physical actions of force, where the subject is assaulting the officer with a weapon, and/or uses techniques or objects which could result in death or great bodily harm to the confronting officer.

## **LEVELS OF CONTROL**

Force that an officer uses to gain control over a subject's resistant actions is divided into five major categories: Officer Presence, Verbal Direction, Empty Hand Control, Intermediate Weapon, and Lethal Force.

Once an officer determines that he/she must use physical force, the level of force used will be dependent upon the officer's perception of resistance and danger of that resistance, and whether that resistance is placing the officer or another in jeopardy of serious injury or death. It is important to note that each officer's perception of the danger of the level of resistance will be based upon the officer's past training, experience, and knowledge of physical control techniques.

Use of approved devices and equipment by officers to affect levels of control are discussed under the respective level of control the device falls under. Under no circumstances should an officer unnecessarily brandish or use any device or equipment in such a manner as an intimidation device unless the officer is attempting to prevent further escalation of force.

Officers shall be given proper formal training and annual refresher training in the use of any device/equipment described under "levels of control" prior to implementing its use. Officers shall not use equipment/devices which they have not received training for.

Officers will make certain that no device/equipment is available to inexperienced or irresponsible persons and under no circumstances shall any device/equipment be left unattended in a public place.

### **Level 1. Officer Presence**

Oftentimes a situation will be resolved just by the presence of a uniformed police officer's presence. When members of the public see a marked squad car or uniformed police officer, in more cases they understand the authority that comes along with those very identifiable features. This alone can have a calming effect on a chaotic situation.

### **Level 2. Verbal Direction**

The majority of situations can be resolved by good communication skills or verbal direction. Often, the mere presence of an officer and proper verbal direction will be sufficient to persuade most individuals to follow an officer's direction. In any verbal confrontation, fear and anger must be defused before a suspect will be able to understand the officer's commands; this requires good communication skills and patience. Successful communication techniques can prevent many physical confrontations from escalating to higher levels.

### **Level 3. Empty Hand Control**

Empty hand controls are physical contact techniques which cover a number of subject control methods. Some of these methods may be as subtle as gently guiding a subject's

movements, to more dynamic techniques, such as strikes or kicks, which may have a higher potential of injury to the subject. This policy divides Empty Hand Control into two categories: Soft Empty Hand Control, which are techniques that have minimal implications of injury; and Hard Empty Hand Control, which are techniques that have a higher probability for subject injury.

### **Level 3a. - Soft Empty Hand Control**

This level of control is used when an officer faces passive or defensive physical resistance. These are methods of physical control which usually subdue an offender without any severe injuries. Techniques which fall into this category are: strength techniques, joint locks, leverage locks, and pain compliance techniques, such as pressure points or strikes that temporarily inhibit a subject's movement. These strikes are designed to create loss of breath, muscle cramping, or mental disorientation.

- **Handcuffs and Restraints**

The purpose of handcuffs, flex-cuffs, or transport handcuffs is to restrain the movements of a subject in a manner that provides a safe means of transportation for officers. Restraints also prevent further physical resistance from a subject which lessens the chance of further injury during continued attempts to restrain the individual. The use of handcuffs or restraints is just above verbal direction on the "Use of Force Continuum".

When restraining and transporting any subject, when possible, the subject will be transported in a marked patrol vehicle equipped with a security screen.

All persons transported in patrol vehicles should be handcuffed and seated, if possible, in the rear seat.

#### *Handcuff and Restraint Rules*

- To ensure proper safety for officers, all subjects should be handcuffed before being searched.
- All subjects taken into custody, if handcuffed, should be handcuffed behind their back, and the handcuffs should be double-locked. An exception to this rule is when the subject has an injury that does not permit his/her arms to move behind his/her back. Other factors, such as the subject's age, physical condition, or physical limitations, may also dictate a change in this procedure.
- If a subject complains that the handcuffs are too tight, the transporting officer is to ensure that unnecessary tightness, which may prevent proper blood circulation, does not occur.
- Except under exceptional circumstances, officers should not handcuff a subject to fixed objects, such as posts, vehicles, buildings, etc.



- It is not uncommon for an officer to arrest a subject, place him/her in restraints, and then have the subject start to resist. If an officer does encounter this type of resistance, the officer should utilize control techniques to prevent injuries to himself/herself or injuries to the subject. However, control techniques should be limited to those to effectively regain control of the subject.

### **Level 3b. - Hard Empty Hand Control**

This level of control is for high levels of defensive resistance, active aggression, or deadly force. These techniques are applied when lower forms of control have failed or when not applicable, because the subject's resistance level was at a perceived dangerous level. Techniques that fall into this level of force have a probability of creating soft or connective tissue damage, skin lacerations that require medical attention, or bone fractures. Although the use of these techniques may create some minimal injury to the offender, an officer may be risking injury to himself/herself or have to utilize higher levels of control (such as intermediate weapons) if hard empty hand control had not been used. Techniques that are considered as hard empty hand tactics are:

- **Chemical Agents**

Chemical agents are chemical irritants whose active ingredients include: Ortho-chlorobenzalmalononitrile (CS), Chloracetophenone (CN), Hexachlorethane (white smoke) (HC), Oleoresin Capsicum (OC), or products consisting of a combination of the aforementioned active ingredients.

To minimize injury to suspects, officers, and others, or to avoid property damage. The use of chemical agents may be necessary in circumstances where there is a propensity for injury, or danger to life and/or property, and other methods of control or apprehension would appear to be ineffective or more dangerous.

#### *Chemical Agent Delivery Systems*

Chemical agents are produced and packaged in numerous forms including, but not limited to, hand-delivered liquid aerosols, foams, gels, hand-delivered pyrotechnic devices, and firearm launched projectiles consisting of liquid, pyrotechnic, or non-pyrotechnic components.

#### *Chemical Agent Use*

Carrying an aerosol chemical agent on duty by police officers is optional. Aerosol chemical agents may be used:

- To defend the officer or another from injury when the use of higher degree of force is not essential or practical.

- To effect an arrest or gain control of a suspect when resistance is encountered, which results in personal injury to either the officer or the suspect.

### *Chemical Agent Rules*

- Prior to the deployment of a chemical agent, due regard shall be exercised for the safety of the subject, police officers, and innocent citizens.
- The chemical agent should be carried in an appropriate holder when not being used.
- Any time a chemical agent is used for controlling an offender, the application of the chemical agent will end when the offender discontinues resistance, or when it appears that the application of the chemical agent does not have a de-escalating effect on the resistance level of the offender.
- Each time an officer uses a chemical agent on an offender, the officer will ensure that the offender will receive appropriate medical attention, as recommended by the agent manufacturer, as soon as practical.
- Whenever an officer books into a detention facility a prisoner who has been exposed to a chemical agent, or transfers that person to a medical facility, the officer shall advise that facility to prevent the unnecessary contamination of other prisoners, patients or personnel.
- If a chemical agent is used, its use shall be documented on a RTR form and/or in a detailed written report, as appropriate.

### *Chemical Agents Used in Riot Control – Barricaded Suspect Situations*

The officer in charge (incident commander) will make the determination of when to use a chemical agent based on assessment of needs, i.e., to disperse an unruly crowd or to effect the arrest of a barricaded suspect. The application of a chemical agent against large groups of people for riot control will be at the command of the Chief of Police or his/her designate.

Before a chemical agent is deployed for riot control or a barricaded subject incident, the officer in charge should consider:

- Proper scene cordon and evacuation techniques.
- Type of chemical agent(s) and most appropriate delivery system.
- Wind conditions and residual effects of the chemical agent.
- Considerations of fire hazards, and have the fire department on standby, if appropriate or possible, before deployment.

- Proper protective equipment to be issued to involved personnel.
- Pre-planned use of chemical munitions in tactical operations must be approved by the incident commander or team leader and must be justified in the operations plan.
- Use of chemical munitions and agents will be included in the after action report of the operation and will include the type of agent, manufacture, method of delivery, and any injury or damage resulting.
- All personnel exposed to chemical agents or munitions will receive appropriate medical attention as recommended by agent manufacturer, as soon as practical. Further treatment will be dictated by the degree of contamination.
- Expended canisters and projectiles of chemical munitions will be retrieved by team members as soon as practical, bagged and turned over to the team commander, team leader, or his/her designate for disposal.

- **Distraction Devices**

Distraction devices are non-lethal devices that create disorientation and confusion through the use of a loud report and a brilliant flash of light.

- Officers who have attended distraction device training may use or deploy distraction devices assigned to the tactical team.
- Pre-planned use of distraction devices in tactical operations must be approved by the team commander or team leader and must be justified in the operations plan. Emergency use of distraction devices must be reasonable, justified and necessary.
- Team members deploying the distraction device will, when possible, throw the device into an area that is visible to the thrower to prevent the device from landing directly next to people or combustible items.
- At least one fire extinguisher will be available if distraction devices are used.
- Use of distraction devices will be included in the after action report of the operation and will include the number of devices used, area deployed, and any damage or injury resulting.
- Any person claiming injury as a result of the use of a distraction device will be transported to a medical facility for examination.

- Expended distraction device bodies, fuse assemblies, and safety levers will be retrieved by team members, as soon as practical, and turned over to the team commander, team leader, or designee for disposal and maintenance.

- **Striking Techniques**

Striking Techniques are techniques that may be delivered with an officer's open hand, fist, forearm, leg, or foot. Preferably the target points for these types of strikes will be delivered to major muscle mass, such as the legs, arms, shoulders, or side of the neck. If the targets are these, the strikes will create muscle cramping, thus inhibiting muscle action. However, it may be necessary for the officer to strike areas where there is a potential for injury, such as the face or very sensitive areas of the body.

*Striking Techniques Medical Considerations*

Any time an officer finds it necessary to strike a subject where an injury occurs, it is the policy of this department that:

- The officer shall immediately contact the supervisor and advise the supervisor of the nature of the injury.
- The supervisor (or a senior officer in a case when a supervisor is not available) shall ensure the subject is evaluated by medical personnel or is given proper medical attention.

#### **Level 4. Intermediate Weapon Control**

This level of control employs the use of department approved tools that provide a method of controlling subjects when deadly force is not justified, but when Empty Hand Control techniques are not sufficient in effecting an arrest. Whenever an officer uses an intermediate weapon for control, it should always be with the intent to temporarily disable an offender, and never with the intent of creating permanent injury. When intermediate weapons are used, it is quite likely that some form of skin irritation, bruising, soft or connective tissue damage, or bone fracture, may occur.

- **Electronic Capture/Control Device (ECD)**

An "Electronic Capture/Control Device" (ECD) weapon is a device which delivers an electrical energy charge that is designed to override the central nervous system and take direct control of the skeletal muscles of an individual.

The ECD is a device used to assist in the capture of a resisting individual so they can be controlled using other reasonable use of force techniques.

- Only sworn personnel who have completed departmental approved training may use an ECD.

Sworn personnel shall only carry and use ECDs that have been approved by the Willmar Police Department. Responsibility for the overall maintenance of ECDs, as it relates to ordering of cartridges, chargers, battery maintenance and/or other part replacements, will be handled as an assigned task to a specified sworn officer within the department. This specified officer is the only person to install/remove the DPM (Digital Power Magazine), due to risk of damage to the ECDs, unless the DPM becomes saturated or submerged in water. If saturation/submersion occurs, the officer shall remove the battery, dry the unit and while keeping the battery and unit separate, deliver the unit and the battery to the Taser instructor for examination and reinstallation of the DPM.

### *Use of an ECD*

The use of the ECD is justified when an officer's attempt at Empty Hand Control would be ineffective or not reasonable under the circumstances, when use of deadly force is not justified, and the use of the ECD is reasonable and necessary under the given circumstances. The use of the ECD is intended to temporarily incapacitate an offender, not to cause permanent injury.

- The ECD is not a replacement for a firearm and should not be used without firearm backup in those incidents where there is a threat of death or great bodily harm to the officer or another person.
- An ECD may be used when necessary to control or aid in the capture of an aggressive, potentially dangerous or diseased animal.
- An ECD may be used as necessary to overcome physical or non-compliant resistance or resistance in which the officer believes that lesser control options would not be effective.
- The following factors, when reasonably perceived by the officer at the time of the incident, require elevated justification for deployment. Under the following conditions the risk of direct or secondary injury to the subject is elevated, thus the justification for ECD deployment is also elevated. The officer must balance the elevated risk of injury with the need for immediate apprehension. Factors warranting an elevated deployment justification include:
  - Presence of flammable materials
  - Subject located in an elevated position
  - Subject operating a vehicle or machinery
  - Subject running
  - Subject obviously, or known to be, pregnant
  - Subject in water sufficient to drown
  - Subject obviously frail or infirm

- When the ECD is deployed using darts, the preferred target area on the front of the body is the lower torso (below the chest) and legs. The preferred target area for the back is any part of the body below the neck. Officers are to make every effort to avoid dart placement in the head/face or sensitive soft tissue areas which include the neck, groin/genital areas and female breast tissue (see illustration at end of directive). Greater probe spread generally increases effectiveness.
- An officer using an ECD against an individual will report the circumstances to the on-duty shift supervisor as soon as practical.
- ECDs will be secured and controlled by the officer to whom it is assigned. In no event shall the unit be left unattended or unsecured in a public place.
- Prior to the use of any ECD, an officer must have received formal training in each specific ECD being used. Additionally, officers must receive annual refresher training for each ECD approved for use by the Willmar Police Department.

#### *ECD Medical Considerations*

- When an ECD is used on a subject, the number of cycles should be limited to three (3) or less. Application of more than three (3) cycles must be justified by the violent and assaultive actions of the subject that cannot be controlled by other acceptable use of force techniques
- When an ECD is used on a subject, they shall be examined for any injuries and the proper first aid/medical treatment shall be rendered by the officer or emergency medical personnel as necessary.
- Any person subjected to an ECD which involves a dart piercing the skin shall, as soon as practical, receive medical attention as recommended by the ECD manufacturer, including dart removal from the skin.
- Used ECD darts are considered a biohazard and must be handled appropriately, including the use of protective gloves.
- Officers may remove ECD darts that have not penetrated the face or sensitive soft tissue areas once the subject is under control. Once the darts are safely removed, the puncture site can be treated with a sanitizing agent and a bandage.
- ECD darts that have penetrated the face or sensitive soft tissue areas will be removed by Emergency Room staff or their designee.

#### *ECD - Officer Carry and Deployment Responsibilities*

- An officer assigned to patrol duty is not required to constantly carry the Taser ECD on their physical person, but will always have their assigned unit in a

secure/accessible area of their squad car, available for rapid deployment as needed.

- The Taser ECD will be assigned to officers as equipment and circumstances dictate. A “spare” Taser ECD will be available for officers with no specific Taser ECD assigned to them to use as needed.
- Each officer is responsible for checking the Taser ECD unit to which they are assigned and ensure proper battery charge, cartridges and storage.
- Taser ECDs will be carried with a minimum of one cartridge attached and the option of carrying a second cartridge on the extended DPM. Officers may also carry a maximum of two additional cartridges in approved holster/cartridge combinations.
- Officers wishing to use different Taser approved accessories such as the Taser Cam, non-extended DPMs, or other equipment such as different holster systems relating to the Taser than what was originally issued may do so only with prior approval.

Approval can be sought by submitting a letter of request for the intended change to the Chief or Captain, along with a photo and description of the desired equipment to be used. If approved, the officer will receive a signed copy of their request indicating approval. The original approved request will be placed in the officer’s personnel file for future reference.

If an equipment change request is granted, when attending training, officers shall train with the equipment approved for carry and not switch back to a system they do not normally use.

- All Taser ECD holsters/cartridge holders shall have a positive retention device of some type.
- The most effective range of the Taser ECD is from 7 to 15 feet. The maximum range is determined by the type of cartridge used. Cartridges range from 21 feet to 35 feet.
- An officer shall inform other officers of the presence and/or planned use of the Taser ECD as is tactically prudent and practical, so the Taser ECD air cartridge shot is not mistaken for the discharge of a firearm.
- When a Taser ECD is deployed, it should be allowed to cycle for the factory set period of five (5) seconds, thus allowing other officers time to gain control of the subject using other control measures. Stopping the device from completing its full cycle may not achieve the desired effects and possibly cause additional cycles to be used in order to restrain and control the subject.

- The Taser ECD can be used by direct touch method (drive stun) when physical / hands-on control is needed.
  - Expended cartridges and darts from the Taser ECD should be maintained as evidence. The probes should be inverted and placed into the portals of the spent Taser cartridge. The probes will then be secured with tape, marked with appropriate biohazard marking, and placed into evidence in an approved manner.
  - Individual officers are responsible for having the Taser ECD data downloaded from their assigned Taser ECD by the departmental person assigned to Taser ECD maintenance after each deployment upon a suspect. This report shall be attached to the main case file. This data is retained in the Taser ECD, and the unit can remain in service until the data can be downloaded, but the download shall be done as soon as possible.
  - When officers are off-duty and the assigned Taser ECDs are in their homes, officers should securely store the Taser ECD out of reach of children and guests.
- **Impact Weapons**

Impact weapons can provide a means by which an officer can defend himself/herself or another from injury and a means of controlling offenders when an officer is facing resistance in the form of active aggression or aggravated active aggression.

Department approved impact weapons are tools/devices identified in police culture as “ASP’s”, “Kubotans”, “PR-24’s and “Batons”. This would include the expandable/collapsible impact weapons manufactured from a variety of substances, i.e., plastics, metal, composites, etc.

#### *Impact Weapon Target Considerations*

The target area for impact weapons should be the major muscle masses of the body, such as forearms, thighs, and calves. These locations should be primary targets because of the lower implications of subject injury. Impact weapon strikes normally create severe muscle cramping which inhibits a subject’s ability to continue aggression.

The joint and bone areas of the body, such as the elbows, wrists, and knees, have a high probability of creating soft or connective tissue damage or bone fractures when struck with an impact weapon.

Impact weapon strikes to the head, neck, throat, and clavicle areas should not be used unless the officer is justified in using deadly force. These striking points have high implications of creating severe injury in the forms of great bodily harm or death.

#### *Impact Weapon Rules*



- The baton shall be used only when a lesser degree of force has proved futile or would appear that a lower level of force may be ineffective in overcoming resistance by an arrestee, or in protection from an assault by any subject.
  - No officer shall carry any impact weapon in which he/she has not received annual training and certification.
  - After receiving proper training, each officer has final discretion regarding the choice to carry or not carry an impact weapon, depending on the officer's determination of the circumstances.
  - Impact weapons should be carried in the holder, or in a low profile position when the impact weapon is not being used.
  - At no time shall an officer unnecessarily brandish or use any impact weapon as an intimidation device unless the officer is attempting to prevent the further escalation of force, and then only when the officer is fully justified and prepared to deploy the impact weapon.
  - All strikes with an impact weapon should be delivered to major muscle mass areas such as the forearms, thighs or calves. Strikes should not be directed to the areas of the head, neck, throat or clavicle unless the officer is justified in using deadly force.
  - Any time an officer finds it necessary to strike a subject with an impact weapon, the officer will contact his/her supervisor and inform the supervisor of the nature of the incident as soon as practical.
  - Once a subject has been brought under control with the use of an impact weapon, the officer will ensure that the subject receives adequate medical attention, if necessary, as soon as possible.
- **Less Lethal Munitions**

In the "Use of Force" continuum, use of less lethal munitions is classified as intermediate weapon control. Sworn officers of the department who are trained in the use of less lethal munitions may defend themselves, and others, in situations presenting combative, resisting, and/or violent individuals/groups who present a risk of inflicting or receiving serious injury.

Less lethal munitions are neither a replacement nor a substitute for other authorized devices and techniques, including the use of deadly force, when authorized by policy and law. Thus, less lethal munitions should only be used when it is the best choice for the situation and circumstances. Less lethal munitions assist with the de-escalation of potentially violent confrontations.

Only less lethal munitions issued by the department may be used by officers for self-defense or to protect another from injury, to counteractive resistance or aggression, or as a means of control.

No officer shall use weapon systems designed for delivering less lethal munitions without having completed required training in their use.

The less lethal munitions weapon will be carried with a lethal weapon at all times.

### *Less Lethal Munitions Definitions*

- Cover Officer – An officer who is covering a subject in a confrontation with his/her issued firearm or departmental long gun loaded with standard issue conventional ammunition.
- Less Lethal Munitions – Flexible or non-flexible projectiles that are intended to incapacitate a subject with a minimal potential for causing death or great bodily harm when compared to conventional projectiles.
- Bean Bag Round – A single projectile fired from a designated departmental firearm consisting of a material covered weighted projectile.
- Less Lethal Force Philosophy – A concept of planning and force application, which meets operational objectives, with less potential for causing death or great bodily harm than conventional enforcement tactics.
- Less Lethal Officer – A member of the department who is trained in the use of less lethal munitions deployed by a less lethal weapon, shotgun, gas launcher or other device, at a subject or at the scene of a violent crowd.
- Designated Shotgun – Designated department shotguns marked, loaded and used expressly for the purpose of delivering only less lethal munitions. The Willmar Police Department will identify these shotguns by painting the entire forearm and stock a fluorescent yellow color.

### *Training*

No officer shall use munitions delivered less lethal weapons without having completed required training in their use. Training in the use of less lethal munitions will consist of approved department training delivered by a certified instructor. This course shall consist of classroom instruction, as well as a familiarization firing and qualification firing.

Officers must qualify annually in an approved course of fire. Qualifying with less lethal munitions consists of the officer's ability to hit an adult sized silhouette within the abdominal/pelvic girdle area from 15 yards. Officers failing on their first attempt will be given a second opportunity to qualify. Failure to qualify on the second attempt

will result in remedial training for the affected officer. Failure to qualify will result in removal as a less lethal officer until he/she receives additional training from the range master.

### *Evaluation of Projectiles*

Munitions delivered less lethal projectiles being considered for use will be evaluated on the following criteria:

- Accuracy

Accuracy is the primary consideration because proper placement greatly assists in controlling the other two evaluation criteria.

Accuracy evaluation will be based on the anticipated range of deployment.

A minimal standard of accuracy for the beanbag round is a 6-12" group at 15 yards.

- Effectiveness

Effectiveness is the potential to cause incapacitation and/or reduce the subject's or group's ability to continue their inappropriate behavior.

The level of energy necessary to cause incapacitation creates the potential for injury. However, when properly deployed, a low probability exists for causing great bodily harm or death.

- Potential for Causing Death or Great Bodily Harm

The potential for causing death or great bodily harm with these projectiles is a reality; however, the potential is greatly reduced when impacts to the head and neck are avoided. Providing appropriate medical examination in all cases where the subject is struck with one or more less-lethal projectiles will also reduce this potential.

When engaging a subject with less lethal munitions, the officer must evaluate the effectiveness of each round fired. Compliance and/or incapacitation are the desired goals and alternative target areas/responses should be considered when the rounds are not effective. The alternative target area/response consideration will be based on the circumstances the officer is encountering and established department safety priorities.

- Deployment Areas

The less lethal projectiles will be delivered to subject target areas based on the circumstances, safety priorities, and the department policy on use of force.

The target areas of the body (abdominal/pelvic girdle area) shall be used in determining contact areas for less lethal munitions weapons.

Intentional impact to the head and neck areas will be avoided unless the use of deadly force is justified, necessary and appropriate.

- Force Continuum

The use of munitions delivered less lethal impact weapons is considered the same level of force as impact weapons, when deployed to areas of the subject's body that are considered unlikely to cause death or great bodily harm.

The use of munitions delivered less lethal projectiles is considered deadly force if intentionally deployed at the head or neck areas of the subject.

### *Deployment Techniques*

Only designated department shotguns are to be used with less lethal munitions.

Prior to deploying less lethal munitions, the on-scene supervisor, along with the less lethal officer, shall consider:

- The level of force being confronted
- The department safety priorities/Use of Force Policy
- The proximity/access of the subject to officer

*Less Lethal Munitions will be used for situations where:*

- The subject is displaying a dangerous weapon in a threatening manner.
- The subject's actions prevent the officer(s) from getting close enough to take control of the subject without the possibility of serious injury to himself/herself or others.
- De-escalate a dangerous or potentially dangerous situation.
- Protect officers and other persons from harm (including self-inflicted injury).
- To stop the attack of a violent individual.
- To deploy chemical agents.
- To control mass subjects in civil disorder/rioting.

### *Deploying Less Lethal Munitions*

Special considerations of lethal cover should be made in all cases involving subjects with firearms.

The officer armed with the less lethal shotgun will notify all officers at the scene that a round is being fired when practical and tactically safe to do so.

The officer shall evaluate the effectiveness of each less lethal round that is fired and strikes the subject and/or subjects.

The number of less lethal rounds fired will be based on their effectiveness. Once the subject has stopped his/her aggressive actions and/or is no longer a threat, less lethal rounds shall stop.

If the less lethal rounds do not incapacitate the subject and the subject remains a threat to life of officers or others, the officer armed with the less lethal system may, at his/her discretion, use deadly force and/or the cover officer may use deadly force against the subject.

The less lethal rounds should not be deployed at a distance of less than 30 feet unless the circumstances of the situation support the use of deadly (lethal) force anyway. Deploying at less than 30 feet may result in serious bodily injury or death. Deploying at the head and neck area shall constitute the use of deadly force.

#### *Duties of Lethal Cover Officer*

If the situation warrants, a lethal cover officer may cover a subject with a lethal force weapon.

The lethal cover officer should be prepared to fire in the event less lethal rounds are deployed and are not effective against the subject, or should the situation have escalated to the point that deadly force is needed immediately to prevent serious injury or death to officers or anyone else.

If time and safety factors permit, the cover officer should also evaluate the effectiveness of any less lethal rounds that have been deployed and struck a subject before firing any conventional firearm.

#### *Handling of Injured Subjects*

Subjects who are struck by a less lethal projectile shall be transported to a medical facility for examination.

If necessary, first aid shall be rendered by an officer at the scene until medical personnel arrive.

- **“Weapons of Opportunity”**

A non-specifically approved weapon or item used to control a subject. It would be any item, household or otherwise, that may be used by an officer.

Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the officer or public requiring the use of a device or object that has not been authorized to counter such threat.

### **Level 5. Lethal (Deadly) Force**

#### **Policy**

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 himself/herself as a law enforcement officer and warn of his/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.

### **Use of Certain Types of Force**

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:

- Chokeholds,
- Tying all of a person's limbs together behind a person's back to render the person immobile, or;
- Securing a person in any way that results in transporting the person face down in a vehicle.

Less than lethal measures must be considered by the officer prior to applying these measures.

- **Neck Restraints**

The Shoulder Pin restraint is the only neck restraint the Willmar Police Department teaches. The Shoulder Pin Restraint, which is a technique that applies arm pressure only to one side of the neck, is considered deadly force (MN Statute 609.06 s3). This technique will only be used when an officer is authorized to use deadly force.

*Neck Restraints – Level of Control*

The Shoulder Pin Restraint allows an officer to use only that degree of force which is necessary to control the subject. The amount of force needed can be increased or replaced as the situation requires. The following are the three distinct levels of control that can be achieved with the properly applied Shoulder Pin Restraint.

- Level I – is a rear neck lock with no compression.
- Level II – control is the application of pressure until the subject consciously stops resisting. This is the level which is most often used in field arrest situations.
- Level III – application is the continuation of a Level II restraint and places the subject into unconsciousness due to the subject's failure to stop resisting. With all applications, officers should use repetitive verbal commands to stop resisting.

*Neck Restraints - Medical Considerations*

- If a subject is rendered unconscious, the subject should revive in 5-20 seconds without any assistance from the officer. However, anything around the subject's neck should be immediately loosened to help ensure normal breathing.
- If a subject has been rendered unconscious and is breathing normally, the officer will immediately handcuff the subject to prevent applying a neck restraint a second time.

- In the event the subject does not revive in 30 seconds, standard First Aid methods of resuscitation should be implemented immediately.
- Any time an officer finds it necessary to place a subject into unconsciousness for purposes of control, the officer will immediately contact a supervisor and inform the supervisor of the nature of the incident.
- Once a subject is under control, the officer should make sure that the subject receives adequate medical attention as soon as possible.

- **Vehicles**

Employees will drive department vehicles in a lawful manner at all times with due regard for the safety of all persons and regard to the condition of the vehicle itself.

Officers should consider the risks to the public (and themselves) in any high speed pursuit, as balanced against the nature of the offense for which a subject is being pursued, the danger to the public if the subject is not apprehended, and possible alternative methods of apprehension.

It is expected that police officers of this department will pursue known, wanted criminal offenders and traffic violators who fail to yield upon receiving proper notice. However, good judgment and common sense will be used in every vehicle pursuit.

High speed vehicle pursuits of known dangerous felons would generally allow the officer to drive at higher speeds. Officers are reminded, however, that the higher the speed, the higher the risk becomes for loss of vehicle control and an accident.

Instances in which a vehicle is used in use of force or deadly force situations shall be reported in the same manner as covered under the "Firearm Discharge Notification" section of this policy.

#### *Vehicle Rules*

Supervisors have the authority to terminate a pursuit at any time. Each instance must be considered separately and the successful apprehension of the subject must be weighed against the real and present danger involved.

During the course of police work, situations may arise in which there is justification for the use of deadly force and the only tool at hand is a motor vehicle or patrol car.

- Because of the amount of force generated by a speeding vehicle and the potential for loss of control, officers should attempt to refrain from deliberately colliding with other vehicles or to use the police vehicle to force any vehicle off a roadway except as a last resort. Officers trained in the PIT (Pursuit Intervention Technique) are exempt from this rule providing they are employing correct PIT



maneuvers (see section under [“Pursuit Tactics”](#) of General Directive #0003 “Operation of Department Vehicles”).

- **Firearms**

An officer is equipped with a firearm to defend himself/herself or others against deadly force assault, or when it reasonably appears necessary to effect the arrest of an escaping felon, although use of deadly force against an escaping felon is appropriate only when the felon has used or threatened use of deadly force, or if there is a fear that the felon will cause death or great bodily harm if not apprehended.

An officer shoots when it appears necessary to prevent the individual from completing what he/she is attempting, or when the escape of the individual would endanger others. When a firearm is used by an officer, it must be with the realization that the death of some person may occur, regardless of whether that was the intent or not.

Regardless of the crime or the legal justification for firing at a suspect, officers are reminded that their basic responsibility is to protect the public. Officers are to be particularly cautious when firing under conditions that would subject innocent bystanders to substantial danger. In the stress of a shooting situation, an officer may not have the opportunity or ability to direct his/her shot to a non-fatal area. To require him/her to do so could increase the risk of harm to himself/herself or others. When firearms are used, the intent is not to kill the person, but to completely disable the person. An officer will not shoot for the purpose of merely wounding; this only allows the person a subsequent opportunity to fulfill his/her unlawful intentions.

#### *Firearm Discharge Rules*

Willmar police officers *are not* permitted to fire their weapons under the following circumstances:

- Warning shots shall not be fired to induce the surrender of any person.
- Shots shall not be fired at persons who have committed only a misdemeanor.
- Shots shall not be fired merely to prevent the destruction or theft of property.
- Shots shall not be fired to halt any person who simply runs away to avoid arrest, unless circumstances under permissible discharges dictate otherwise.
- An officer shall never use his/her firearm to bluff an individual into submission. This does not mean, however, that the officer must shoot in every instance when the officer draws his/her weapon.
- Shots shall not be fired on mere suspicion that a crime, no matter how serious, was committed or on mere suspicion that the person being pursued committed the crime. An officer should have either witnessed the crime or should have the

strongest reasonable grounds to believe that the suspect committed an offense for which the use of deadly force to apprehend is permitted.

Willmar police officers *are* permitted to fire their weapons under the following circumstances:

- At an approved target at an approved firing range.
- For practice, in a safe manner, in any area where firing a weapon would not be in violation of the law.
- In order to destroy an animal that appears to be suffering from an apparent fatal wound or sickness, that humanity requires it. Under this circumstance the animal may be destroyed after a reasonable attempt has been made to contact the owner or agency responsible for injured animals, or after the action has been cleared by the shift supervisor.
- At any animal that represents a threat to public safety.
- To protect the peace officer or another from apparent death or great bodily harm.
- 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 involving the use or threatened use of deadly force.
- To effect the arrest or capture, or prevent the escape, of a person whom the officer knows, or has reasonable grounds to believe, has committed or attempted to commit a felony, if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

### *Firearm Discharges*

Whenever an officer discharges his/her firearm, either accidentally or officially, the officer shall immediately, or as soon as possible:

- Determine the physical condition of any injured person and render first aid when appropriate.
- Request necessary emergency medical aid.
- Notify a superior officer.

### *Shooting at Vehicles*

The danger to innocent persons from ricocheting bullets or out of control automobiles argues against firing at cars in most cases. However, a car should not become a sanctuary for a suspect at whom the officer is otherwise justified in firing at.

### *Shooting at Vehicles - Rules*

- Officers shall not fire at or from moving vehicles except in situations where deadly force is authorized and only after exercising due regard for the safety of others. Intentional discharge at a vehicle in which another person is believed to be constitutes deadly force by state statute.

### *Firearm Discharge Notification and Reporting*

This section applies to shooting incidents on and off-duty and to incidents in and out of the City of Willmar.

- Except for range practice and during legal hunting, any officer who discharges a firearm accidentally or intentionally shall make a verbal report to his/her commanding officer as soon as circumstances will permit, and shall file a written report with his/her superior officer as soon as practical. The superior officer, upon receipt of this report, will make a thorough investigation and will file a written report with the Chief of Police.
- All intentional or accidental discharges of firearms by department employees, other than for practice where permitted, or while hunting, shall be reported to the department.
- In cases where personal injury or death occurs as a result of an officer discharging a firearm, the Chief of Police shall be notified immediately.
- The preparation of press releases on employee involved shootings is done by the Chief of Police or his/her designee.
- The news broadcasting agencies are informed by a press release. Requests for information not included in the release are referred to the Police Chief's office.

### *Shooting Board*

The Willmar Police Department recognizes the need to conduct the expedient and thorough determination of whether or not there was legal and moral justification for the discharge of a firearm by any employee. The Chief of Police shall determine whether the discharge of a firearm requires the examination of a "Shooting Board". A "Shooting Board" shall be required whenever the discharge is directed towards a human being or involves injury or death of another human being.

A departmental "Shooting Board" is established to make such determination in accordance with applicable Minnesota revised statutes and the policies and procedures of the Willmar Police Department.

A "Shooting Board" will be composed of the Chief of Police or Captain, a Sergeant, a Patrol Officer, and the City Attorney.

The investigation team will be composed of the Police Captain, a Detective, and any other persons as are necessary to investigate the shooting. When possible, an outside agency, such as the BCA, will be called to investigate the case in which the shooting occurred.

An investigation into all firearm discharges (both accidental and intentional) in which a "Shooting Board" is established, shall be conducted as soon as practical by the investigative team. The findings of the investigation team shall be presented to the review board to review the facts and make the appropriate recommendations. This may include the recommendation for an investigation by an outside agency.

The investigation, while necessary to protect the public at large, department employees, and the reputation and integrity of the department, is conducted in a manner consistent with approved investigative techniques, but should not interfere with any other concurrent criminal investigation.

The responsibility of the "Shooting Board" extends to shootings by Willmar Police Officers in other jurisdictions and, in these cases, is conducted in cooperation with the police agency having jurisdiction.

In cases in where probable cause or reasonable grounds exist to believe that the police officer unlawfully discharged his/her weapon, the investigation is conducted as a criminal investigation in accordance with routine procedures. In any event, a report is prepared for the Chief of Police and the "Shooting Board".

Completed records of the investigation are maintained in the police department files; such files are kept in the office of the Chief of Police.

The report of the investigating team is prepared in the following format:

- Synopsis of the incident.
- Facts and circumstances pertinent to the question of whether or not the shooting was legally or morally justified.
- Facts and circumstances that are pertinent to the question of whether or not the shooting involved the violation of any law, department policy, procedure or ethic.
- A place for the boards' decision on the correctness of the shooting in "approval/disapproval" format, including comments.

Other reports, as necessary, are prepared by the "Shooting Board" for distribution to the affected employee, Chief of Police, and Police Commission.

In all cases where a person has been injured or killed as a result of a firearm discharge by an officer, the officer(s) involved shall undergo a debriefing by a

department-provided psychologist. In other cases where officers are involved or have witnessed traumatic events, significant injury or death of another, officers involved may also be assigned to undergo a debriefing by a department-provided psychologist. This is done due to the knowledge that good officers can be lost because of the extreme stress involved with critical incidents. The debriefing shall take place as soon as possible after the incident.

Any officer involved in a deadly force incident shall be placed on administrative leave after completing all internal investigative requirements. Such leave shall be without loss of pay or benefits, pending the completion of the investigation. While on administrative leave, the officer shall remain available for official department interviews and statements regarding the incident and be subject to recall duty at any time. The weapon involved in the shooting shall be taken into custody as evidence by the Chief of Police or his/her designee, and the officer involved shall be issued another department-owned weapon. The officer shall not discuss the incident with anyone except the psychologist, department investigators assigned, the Chief of Police, the City or County Attorney, the officer's attorney, clergy, or spouse. The officer may be assigned to administrative duties for an appropriate time upon his/her return to duty.

An officer involved in a use of force incident involving a death shall be placed on administrative leave until it is determined by a mental health professional that the officer is ready to return to duty.

#### *Officers Surrendering a Weapon*

An officer or his/her partner may find himself/herself at the mercy of a suspect who has the advantage. Experience has shown that the danger to an officer is not reduced by the officer giving up his/her weapon upon demand. Surrendering his/her weapon might mean giving away the officer's only chance of survival. Every tactical tool at the officer's disposal should be used to avoid surrendering a weapon.

### **FIREARM RULES**

- The referral to primary department firearms in this section includes duty handguns and rifles (rifle, less lethal munitions firearms normally assigned to marked patrol vehicles). The referral to specialty department firearms includes such firearms as gas grenade launcher and sniper rifles.
- For duty purposes, an employee will only use a firearm which has been approved by the Chief of Police and/or Captain and which they have qualified with. Qualification is only achieved when the officer has attended training in both a formal and practical setting in the use of the firearm they are shooting and has demonstrated proficiency with that firearm. Training can be accomplished through the use of a recognized department firearms instructor.

- If at any time an officer determines a firearm is defective or unsafe, the officer should return the firearm to the gun locker, tag the weapon for repairs (include on the tag the type of problem with the weapon), and write a memo to the Police Captain and the firearms instructors describing the malfunction of the weapon.
- If it is a primary duty firearm, the weapon should be turned over to the firearms instructors in a safe manner and approach the Chief of Police or Captain for replacement with another department-issued firearm or approval to carry an off-duty weapon until the weapon is returned.
- All duty ammunition shall be factory ammunition issued or approved by the department. Individual hand-loads will not be carried.
- It is the individual choice of an officer as to whether or not to carry a firearm while off-duty. If an officer chooses to carry a firearm off-duty, it must be a firearm that has been approved by the Chief of Police and/or the Captain and the officer must have qualified with the weapon.
- Prior to an officer putting a weapon in service, either on duty or off-duty, the weapon shall be inspected by a department firearms training officer and approved in writing by the Chief of Police. The officer shall also be required to demonstrate proficiency and be able to qualify with the weapon.
- A record of each officer's training will be maintained by department firearms instructors and such records will be kept by the Captain.
- Any modification to a department issued firearm should be needs-based and approved by the Chief of Police, Police Captain or their designee.
- Officers wishing to use different firearm approved accessories, i.e., mounted flashlights, laser sight or holster systems other than standard issue, may do so only with prior approval by the Police Captain.
- Approval can be sought by submitting a letter of request for the intended change to the Police Captain, along with a photo/description of the desired equipment and explanation of its intended use.
- If approved, the officer will receive a signed copy of the request indicating approval. The original approved request will be placed in the officer's personnel file for future reference.
- Officers shall train with the equipment approved for carry and successfully qualify with the same.
- Approval may be rescinded or denied at any time if safety concerns are identified or if the officer shows a decreased proficiency in marksmanship or safety in weapons handling.

### *Firearms Qualification*

Firearms training and qualification schedules are as follows:

- All sworn officers will receive training at least two times a year with primary department firearms. At least one of the training sessions will be conducted in a “low light” situation. Full service load equivalent ammunition will be used for qualification purposes. Before carrying 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.
- Only those sworn officers within the department that have been selected and assigned to specialty units (gas administrator, sniper unit, the Special Weapons and Tactics team) will be trained in the use of specialty department firearms. Training with specialty firearms will only include the firearms designated for use by the members with the specific unit the firearm was assigned to. Officers who are assigned to use specialty firearms will receive training at least two times a year, incorporating qualification with the training.
- Sworn officers will demonstrate proficiency with secondary, backup, or off-duty weapons once yearly if different from their primary department weapon.
- The training officer is responsible for coordinating the firearms training program with the Chief of Police, the Captain, and the department firearms instructors. Courses of fire for qualification, training, or other specialized purposes will be decided upon by the department firearms instructors, the Chief of Police, or the Captain.
- To be considered “qualified”, an officer must achieve an 80 percent score. A score of less than 80 percent will result in an “unqualified” status.
- Officers who do not qualify will shoot additional courses until they qualify. Assistance is provided by the firearms instructors.
- If an officer does not qualify after several courses of fire, the department firearms instructors will consult with the Chief of Police to arrange special training for the employee, and the officer involved shall be placed on a suspension status or removed from a specialty unit until the officer successfully qualifies. Repeated failure to qualify is an indication that the officer no longer meets job requirements, and this may subject the officer to disciplinary action under the rules of Civil Service.
- Duty weapons carried by officers must be department issue or weapons approved in writing by the Chief of Police for special duty assignments.

- The officer must provide both the carry and practice/qualification ammunition for off-duty weapons at the officer's expense. Such ammunition must be approved by the Chief of Police, the Captain, or the firearms instructors.
- Officers in uniform should carry their primary weapon in a snatch-proof security-type holster, but in any event, any holster utilized must be approved by administration before an officer will be allowed to carry it.

### *Firearms - Long Guns*

- The use of a long gun under tactical conditions is at the discretion of the officer.
- Patrol units designated to be equipped with a long gun shall have a serviceable weapon assigned to it.
- Each long gun will be stored, while in the car, in a case in the trunk of the patrol unit or locked in a gun mount in the driver's compartment.
- A long gun shall be stored with a fully loaded magazine, an empty chamber, the hammer down, and the safety off.
- A long gun designated to be used as a "less lethal munitions" weapon shall be marked in such a manner as to readily identify it as the weapon for this purpose. Adequate marking is performed by painting the entire forearm and stock of the weapon in a bright fluorescent yellow color.

This weapon shall never have anything other than "less lethal" munitions placed in the firearm.

- Prior to removing the long gun from the scene of a tactical situation, the officer should ensure there is no round in the chamber, the action is locked open, and the safety is on.
- Standard ammunition for the less lethal munitions shotgun is the "bean-bag" round.
- Standard ammunition for the rifle shall be .223 duty ammunition.
- The firearms training officers shall see to the cleaning and lubrication of all department rifles on a regular basis.
- The Willmar Police Department has several .22 caliber rifles. The primary function of these rifles are for training purposes. These rifles are very similar in appearance and function to our duty issued rifles. The .22 caliber rifles and all ammunition are kept in the Willmar Police armory. Occasionally, the .22 caliber rifles will be used to dispatch a badly wounded or sick animal. In certain



circumstances, an officer may determine it is safer to use a smaller caliber round depending on the area and surroundings.

### *Firearms - Handguns*

Officers of this department shall only carry a department-issued handgun or sidearm approved by the Chief of Police and/or the Captain while on duty.

- Double action semi-automatic pistols shall be carried with a live round in the chamber and a full magazine.
- Semi-automatic pistols are acceptable for duty use only if they are equipped with a frame-mounted, thumb-operated, magazine release. Empty magazines must fall free from the weapon when the slide is locked open.
- Officers in uniform shall carry their assigned duty weapon on the strong-hand side. All uniform duty holsters shall have a positive retention device of some type.
- Officers shall carry a minimum of two spare reloads for their weapon on their belt.
- Officers in plain clothes should carry their weapon concealed and may use a shoulder holster. The holster must be approved by administration and the officer's badge must be available for immediate display.
- Weapons must be kept clean and serviceable, subject to inspection by a firearms training officer, Sergeant, Captain or the Chief of Police. Any unapproved or malfunctioning weapon shall not be carried in any capacity for law enforcement purposes.

### *Firearms – Specialty Weapons*

Only officers trained in the use of specialty weapons shall be permitted to use such weapons. Specialty weapons used by the Willmar Police Department are considered to be rifles designed as long range tactical weapons systems (aka "sniper rifles") and gas grenade launchers.

Storage is provided for each specialty weapon in the Willmar Police Department armory. The responsibility for cleaning and maintenance of specialty weapons falls upon the officers who are assigned to the firearms.

## **CARRYING FIREARMS OFF DUTY**

- Personal weapons carried for off-duty use must be approved by the Chief of Police, the Captain or the firearms instructors. The Chief of Police or Captain must have the make, model, and serial number of such weapons and must issue a memo of authorization before the officer may carry the weapon. The weapon must be of quality manufacture.

- Officers of this department should not carry a weapon off-duty if they anticipate consuming alcoholic beverages, or if they are participating in an athletic event where it is impractical to have the weapon with them, and where the security of the weapon may be compromised by storing it in a locker or vehicle.
- Officers who carry a weapon off-duty shall carry it in the most concealable manner possible to avoid public alarm.
- In no case will an officer who chooses not to carry a weapon while off-duty be subjected to disciplinary action if an occasion should arise in which he/she might have taken forcible police action had he/she been armed.
- Off-duty officers should refrain from taking forcible police action except in circumstances that present a serious threat of death or great bodily harm. Officers should consider the risks to themselves and to others, which may be caused by a sudden confrontation with armed suspects. If it is feasible, off-duty officers should identify themselves as police officers prior to taking any action. In no case shall an officer carry a weapon off-duty unless he/she also carries his/her police identification.

### **HANDGUN STORAGE AND SAFETY**

While carrying a sidearm, an officer shall at all times be conscious of gun safety and accident prevention. Measures to be taken include:

- When removing your weapon for court, jail, interrogation, or any non-tactical purpose in the Law Enforcement Center, the weapon must be placed under lock and key.
- The department provides a bullet trap at the Law Enforcement Center and its use is encouraged when clearing or examining handguns.
- There shall be no indiscriminate displaying of weapons.
- When using public restrooms or facilities, weapons shall be handled in such a manner as to avoid their being dropped, lost, forgotten, or stolen.

When officers are off-duty and the weapons are in their homes, officers should store weapons with the following considerations:

- Weapons should be unloaded if they are not stored in a secured cabinet.
- Weapons and ammunition shall be stored out of reach of children and guests.

### **REGISTRATION, PURCHASE, OR LOSS OF HANDGUNS**

Officers shall file a report with the department immediately following the purchase of weapons for off-duty uses. A similar report shall be filed at once in the case of the replacement of a previously reported weapon by another; however, no officer will be allowed

to use or carry a weapon until the officer has qualified with the weapon and received written approval from the Chief of Police. Included in the report shall be a complete description of the weapon, including the serial number. Any loss of such weapons, whether individual or department owned, shall be reported in writing immediately and shall set forth all the facts concerning the loss.

### **ACCOUNTABILITY**

This directive applies to all officers of this agency engaged in official duties, whether within or outside the territorial jurisdiction of the Willmar Police Department. It is the responsibility of each officer to be familiar with and adhere to this directive. It shall be the responsibility of supervisory personnel to ensure that this directive is followed. Failure to adhere to this directive may result in disciplinary action up to and including termination.

BY ORDER OF THE CHIEF OF POLICE

James E. Felt

MJA/sae

# Electronic Capture/Control Device (ECD) Preferred Target Areas



\* Preferred target areas highlighted in blue.

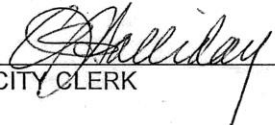
RESOLUTION NO. 7

BE IT RESOLVED by the City Council in and for the City of Willmar, that the Council agrees to adopt and enforce a policy to prohibit the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations, and to enforce applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction.

Dated this 2<sup>nd</sup> day of March, 2009.

  
MAYOR

Attest:

  
CITY CLERK