

# East Grand Forks Police Department Use of Force and Deadly Force

**Directive:** 1.3.1

**Reference:** RSFLEA 1.3, MN STAT 626.8452, 609.06, 609.065, 609.066

**Authorized By:** \_\_\_\_\_  
Michael S. Hedlund – Chief of Police

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**Distribution:** All Personnel (Electronic Version), Dispatch Center, Office of the Chief of Police  
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## I. PURPOSE

It shall be the policy of the East Grand Forks 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.

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

## II. POLICY

It is the policy of the East Grand Forks Police Department to ensure that officers respect the sanctity of human life when making decisions regarding the use of force. Sworn law enforcement officers have been granted the extraordinary authority to use force when necessary to accomplish lawful ends. Officers shall treat everyone with dignity and without prejudice and use only the force that is objectively reasonable to effectively bring an incident under control, while protecting the safety of others and the officer.

Officers shall use only the amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

Officers shall exercise special care when interacting with individuals with known physical, mental health, developmental, or intellectual disabilities as an individual's disability may affect the individual's ability to understand or comply with commands from peace officers.

The decision by an officer to use force or deadly force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known or perceived to be known by the officer at the time, rather than with the benefit of hindsight, and that totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using such force.

### III. DEFINITIONS

- A. *Bodily Harm:*** means physical pain or injury.
- B. *Great Bodily Harm:*** bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
- C. *Deadly Force:*** force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
- D. *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.
- E. *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.
- F. *Choke Hold:*** A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to and 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 itself, to stop the flow of blood to the brain via the carotid arteries.
- G. *Authorized Device:*** a device an officer has received permission from the agency to carry and use in the discharge of that officer's duties, and for which the officer has:
- obtained training in the technical, mechanical and physical aspects of the device; and
  - developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.
1. Authorized devices include, but are not limited to:
- a) Firearms
  - b) Less Lethal Firearms
  - c) Impact Weapons (Collapsible Baton)

- d) Aerosol Restraints (OC Spray)
- e) Conducted Energy Weapon (Taser)
- 2. Officers who are working a Patrol shift in the field are required to carry their:
  - a) Conducted Energy Weapon (Taser) **and** at least one of the following:
  - b) Impact Weapon (Collapsible Baton)
  - c) Aerosol Restraint (OC Spray)

## **IV. PROCEDURE**

### **A. Force Considerations**

In determining what force is reasonable under the circumstances, an officer should consider:

- the severity of the crime at issue;
- whether the suspect poses an immediate threat to the safety of the officer or others;
- whether the suspect is actively resisting arrest or attempting to evade arrest by flight; and
- other relevant information the officer reasonably believes to be true at the time.

### **B. Use of Deadly Force**

1. It is the policy of this agency to accord officers discretion in the use of force to the extent permitted by Minnesota Statute. 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 three criteria listed in the previous paragraph, 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 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 of the criteria in paragraph 1a, items i to iii.

3. Where feasible, the officer shall identify themselves as a law enforcement officer and should give a verbal warning before using or attempting to use deadly force.
4. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.

#### **C. Use of Other Than Deadly Force**

It is the policy of this agency to accord officers discretion in the use of other than deadly force to the extent permitted by Minnesota Statute. An officer is authorized to use reasonable force when the officer perceives it is necessary given the circumstances known to the officer at the time in:

- effecting a lawful arrest; or
- the execution of legal process; or
- enforcing an order of the court; or
- executing any other duty imposed upon the public officer by law; or
- defense of self or another.

#### **D. De-escalation**

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.

Whenever possible and when such delay will not compromise the safety of another or the officer and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, an officer shall allow an individual time and opportunity to submit to verbal commands before force is used.

#### **E. General Rules Governing Use of Force**

1. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
2. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape, or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.
3. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
4. All uses of force shall be documented and investigated pursuant to this agency's policies.
5. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the officer or the public requiring the use of a device or object that has not been authorized to counter such a threat.

6. With agency approval officers may modify, alter or cause to be altered an authorized device in his or her possession or control.
7. 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.
8. Once the subject being arrested is handcuffed and under control they should be positioned in such a manner that their breathing is not obstructed in any way (ideally sitting or standing but at a minimum rolled onto their side).
9. Officers should not use any control technique that directly affects a person's ability to breathe (i.e. covering a subject's mouth/nose or placing pressure on a person's neck/throat) unless necessary because the nature of the situation requires the use of deadly force.
10. Per MN Statute 609.06 officers are not allowed to use the following restraint methods unless the situation would be such that an officer would be authorized to use deadly force to protect the officer or another from death or great bodily harm.
  - a. Choke holds (including carotid neck restraints)
  - b. Securing a person's limbs (arms and leg or legs) together behind the back (i.e. hog tying).
  - c. Securing people and transporting them so that they are being transported while face down in a vehicle.
11. An officer may announce their intention to use reasonable force as the situation allows.
12. Officers, without regard to rank or tenure, must intercede if they witness another officer using unauthorized deadly force or other force that is objectively unreasonable under the circumstances.
  - a. An officer who observes another officer or employee using unauthorized force must submit a written report to the Chief of Police within 24 hours.
  - b. Failure to intervene or submit this required report makes an officer subject to discipline by the MN POST Board.
13. The use of warning shots is prohibited.

#### **F. Training**

1. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
2. In addition, training shall be provided on a regular and periodic basis and designed to:
  - a. Provide techniques for the use of and reinforce the importance of de-escalation.
  - b. Simulate actual shooting situations and conditions: and
  - c. Enhance officers' discretion and judgment in using other than deadly force in accordance with this policy.
3. 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.

4. 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.

**G. Recordkeeping Requirements**

The chief law enforcement officer, or his/her designee, will maintain records of the agency's compliance with use of force training requirements.

The following East Grand Forks Police Department Policies are rescinded upon the effective date of this order: "Use of Force" Issued 11/15/2000 – Pages 83-87 and "Use of Force to Effect an Arrest" Issued 11/15/2000 – Pages 91-92 of the old policy manual.