

DEPARTMENT OF POLICE

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CITY OF SAINT PAUL

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Dear Saint Paul Community,

One of the most important discussions that I have in our community is about how police officers use force in the line of duty. It's important to all of us. And it should be.

Over the last several months, the Saint Paul Police Department has been researching best practices and model policies for police officer use of force. I am pleased to be able to take the next step and share a draft use-of-force policy with you: The Saint Paul community. I encourage you to review it and share feedback by following this link: <https://www.stpaul.gov/departments/police/administration-office-chief/saint-paul-police-department-manual/saint-paul-police>.

The updated draft policy provides a clearer picture of this one aspect of law enforcement, and better reflects the way we do our jobs consistent with the standards set forth in Final Report of President Obama's Task Force on 21st Century Policing — a set of best practices that have been incorporated as guiding principles. (Read the Saint Paul Police Department's 21st Century Policing Report at <https://www.stpaul.gov/departments/police/21st-century-policing-report>).

I hope that you will take a moment to provide your feedback on this important topic. As with all Saint Paul Police Department policies, you can quickly and easily let us know your thoughts online at <https://www.stpaul.gov/departments/police/administration-office-chief/saint-paul-police-department-manual/saint-paul-police>.

All responses are important, and will be carefully considered.

Sincerely,

Todd Axtell
Chief of Police

246.00 RESPONSE TO RESISTANCE OR AGGRESSION

Draft date January 16, 2018

- I. POLICY
- II. DEFINITIONS
- III. DETERMINING OBJECTIVELY REASONABLE FORCE
- VI. MEDICAL ATTENTION
- V. USE OF FORCE MODEL
- VI. LEVELS OF RESISTANCE
- VII. LEVELS OF CONTROL

I. POLICY

The Saint Paul Police Department protects people, their property, and their rights by providing trusted service with respect every day without exception - including during encounters that require the use of force to respond to resistance or aggression. Although officers seek to resolve encounters without force whenever possible, as guardians of public safety and welfare, there are times when officers are called upon to use force to keep others, or themselves, safe. In those times, officers are mindful that they derive their authority from the community and that unreasonable force degrades the legitimacy of that authority and the public trust. This policy guides officers to use the least amount of force that is reasonable and necessary to achieve a lawful objective, and to serve all individuals with respect. Regardless of the circumstances, officers will see the value of every person they serve and honor their human and civil rights.

II. DEFINITIONS:

- A. **Aerosol Subject Restraint (ASR) / Aero Freeze + P:** is a non-lethal agent that causes temporary inflammation of the skin, eyes and mucus membranes.
- B. **Annual training** – Annual in-service training provided by the department to all department peace officers.
- C. **Approved Weapons** – Tools meeting department specifications for which officers receive proficiency and safety training. Prior to the use of any approved weapon, the officer, when practical, will communicate to the resisting or aggressive person that the use of the weapon is imminent, and clearly and audibly announce the same to all personnel in the immediate area, unless exigent circumstances prevent this from occurring.
- D. **Cuffing Under Power:** A method where a secondary officer handcuffs a subject while the ECD is being deployed by the primary officer and the subject individual is in Neuro-Muscular Incapacitation (NMI).
- E. **Deadly Force:** Defined by Minnesota Statute 609.066, Subd. 1: “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.”

- F. **Defensive Skills Training** –Training provided to officers on defensive skills and tactics to Respond to Resistance or Aggression.
- G. **De-escalation:** Officer response to stabilize an encounter so that more time, options, and resources are available for incident resolution, in order to reduce the immediacy of a threat, gain voluntary compliance when feasible, and to lower the likelihood of the use of force.
- H. **Documentation:** Includes incident reports and use-of-force reports, and where applicable taped interviews, photographs, videos, and other records.
- I. **Electronic Control Device (ECD):** The ECD is a Neuro-Muscular Incapacitation (NMI) device that stimulates the motor neurons to cause temporary motor skill dysfunction.
- J. **Force Transitions** - The movement, including escalation and de-escalation, from the application of one type of response to resistance or aggression to another. Officers must consider the facts and circumstance known or believed at the time of their action to reasonably respond to an individual’s resistance or aggression.
- K. **Great Bodily Harm:** Defined by Minnesota Statutes section 609.02, subdivision 8: “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.”
- L. **Hard Empty-Hand Tactic:** Weaponless techniques that include strikes, knees, kicks, and takedowns; and which are considered intermediate force options that have a potential to cause injury or substantial pain.
- M. **Impact Weapon:** An instrumentality used to apply physical force to another person.
- N. **Imminent Threat:** refers to an impending violent act or active resistance that an officer reasonably believes will occur, based on the totality of the circumstances.
- O. **Intermediate Force** - A level of force that has the potential to cause injury or substantial pain, and is greater than low-level force.
- P. **Less-Lethal Force:** Any force option that a reasonably-trained police officer should know is reasonably likely to create a risk of causing bodily harm, but does not automatically create a substantial risk of death or great bodily harm.
- Q. **Levels of Control** - Levels of Control are broad categories of influence and/or force in identifiable, escalating stages of intensity. They are identified as low-level force, intermediate force, and deadly force.
- R. **Low-Level Force** - is a level of force or control that is neither likely nor intended to cause injury.

- S. **Reasonable Grounds/Belief:** Facts and circumstances, known or which should reasonably be known to the officer at the time of a decision, which would cause an ordinary and prudent officer to act or think in a similar way under like circumstances.
- T. **Reasonably-Necessary Force:** The amount of physical force that a reasonable officer would believe is necessary to resolve the encounter based on the facts and circumstances known, or which should reasonably be known, at the time of the incident.
- U. **Response to Resistance or Aggression (RRA):** An officer's response to an individual's resistance to an officer's performance of duties, or aggression or threat of aggression against an officer or another person.
- V. **Restraint:** A mechanical or physical means for limiting an individual's freedom of movement.
- W. **Soft Empty-Hand Tactic:** Weaponless techniques that include escort holds, controlled handcuffing, and takedowns; and which are considered low-level force options that are neither likely nor intended to cause injury.
- X. **Totality of the Circumstances:** A set of circumstances and articulable facts available to the officer at the time of the officer's response to resistance or aggression.
- Y. **Use-of-Force Report:** An officer's report documenting their response to resistance or aggression.
- Z. **Weapon of Choice:** Any department weapon that the officer has received permission to carry and use in the course of official police duties.
- AA. **Weapon of Opportunity:** Any object, instrumentality, or device that is not a department weapon, which an officer may deem under the circumstances reasonably necessary to use for the purpose of applying physical force to another.

III. DETERMINING OBJECTIVELY REASONABLE FORCE

The Fourth Amendment prohibits any use of force by peace officers in the line of duty that is not objectively reasonable under the totality of the known or reasonably-believed circumstances. The reasonableness of a particular use of force is judged from the perspective of a reasonable officer on the scene, rather than with 20/20 vision of hindsight, and must account for the fact that officers are must make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving.

Courts review an officer's use of force based on the objective facts or circumstances of an incident, rather than an officer's subjective or personal intent. The officer's perception will be considered, along with other factors to determine whether the force used was reasonable. These factors may include but are not limited to:

1. Severity of the crime(s) at issue;
2. Whether the person poses an immediate threat to the safety of the officer(s) or others;
3. Whether the person is actively resisting arrest or attempting to evade arrest by flight;
4. Relative age, size, strength, and physical capability of the officer compared to the person;

5. Influence of drugs/alcohol or the mental capacity of the subject;
6. Time available to an officer to make a decision;
7. Availability of officers/resources to de-escalate the situation;
8. Proximity or access of weapons to the subject;
9. Environmental factors and/or other exigent circumstances.

Under these General Orders, when officers are called upon to use force to respond to an individual's resistance or aggression, officers must assess each incident to determine, based on policy, training and experience, how to resolve the situation in a manner that is reasonable, necessary, and performed with respect.

IV. MEDICAL ATTENTION

Whenever an officer uses force on a person that results in a visible injury or a complaint of injury, the officer shall call for emergency medical services to evaluate the individual as soon as it is safe to do so.

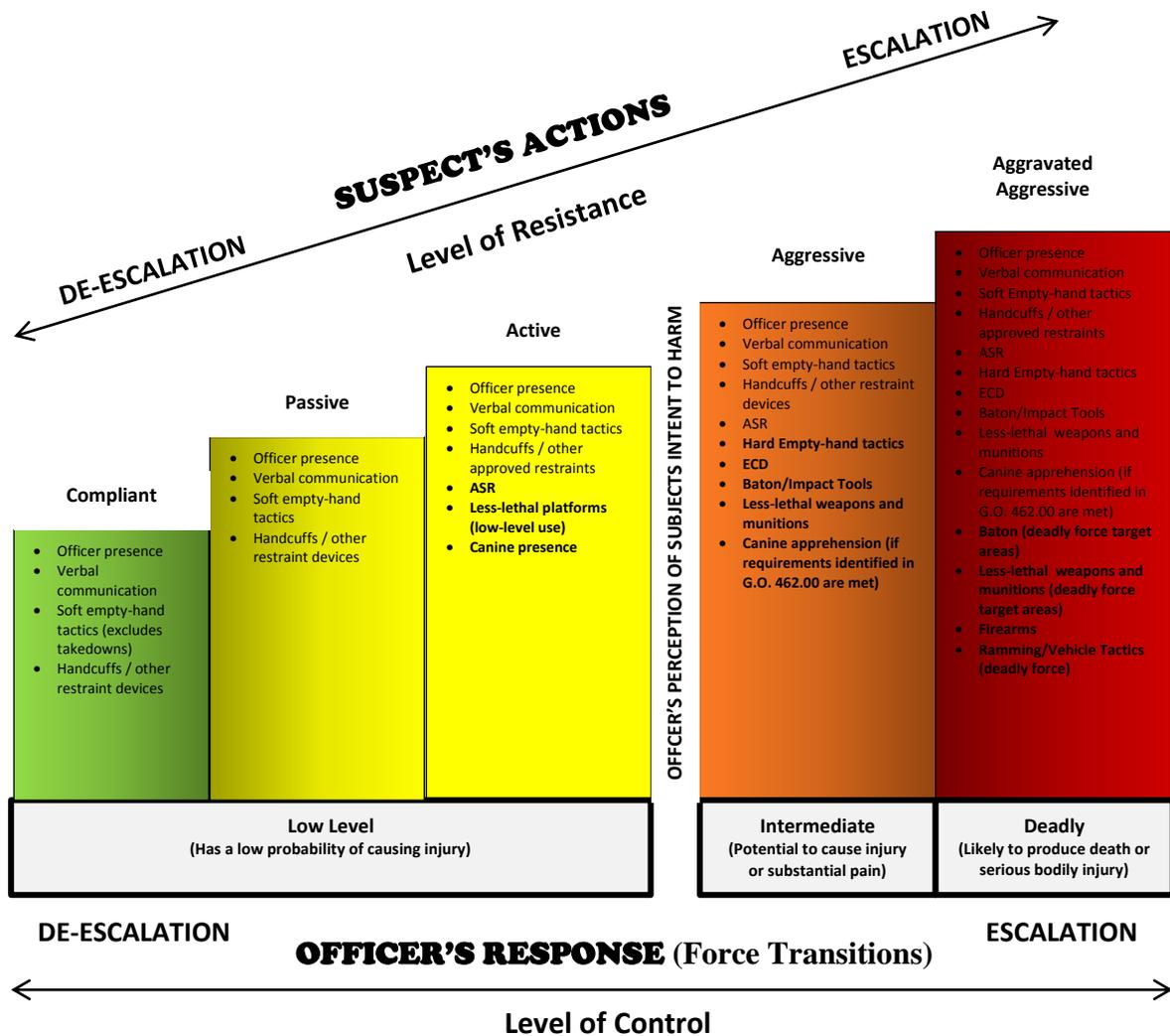
Emergency medical responders shall be called when officers use any of the following responses to resistance or aggression, regardless of whether there is a visible injury or a complaint of injury:

1. Baton/Impact Tools - All strikes
2. ASR - If the individual shows signs/symptoms of an adverse reaction
3. ECD - Probe strikes to a person's head, neck or groin area
4. Canine - Any injury resulting from physical contact between a canine and a person
5. Any injury caused by a department vehicle
6. Firearms – All firearms and specialty weapons

The preferred method of transportation for medical evaluation or treatment is by emergency medical services. However, this policy does not prohibit an officer from transporting an individual if it increases the likelihood of survival based on the nature of injury, estimated time for medical personnel to respond, and proximity of the medical facility.

V. RESPONSE TO RESISTANCE OR AGGRESSION MODEL

Each bold face option within the options for an officer's response represents the highest level of force authorized under these General Orders based on the individual's conduct; however, other force options should be considered to help de-escalate the situation.



This graph provides a general guideline for officers to determine an appropriate response to an individual's resistance or aggression; it is not a set pathway. Each situation will require a different level of response based on an individual's resistance or aggressive behavior. The individual's actions will dictate the level of force that is objectively reasonable under the circumstances. Encounters calling for the use of force are dynamic and require an officer to continually assess the individual's actions to ensure that their response is objectively reasonable.

VI. LEVELS OF RESISTANCE

- A. **Compliant** - A person contacted by an officer who acknowledges direction or lawful orders and offers no passive, active, aggressive, or aggravated aggressive resistance.
- B. **Passive Resistance** - The person is not complying with an officer's commands and is uncooperative, but is taking only minimal physical action to prevent an officer from placing them in custody and rendering the situation safe. Examples include: standing stationary and not moving upon lawful direction, falling limply and refusing to use their own power to

move (becoming “dead weight”), holding onto a fixed object, or locking arms to another during a protest or demonstration.

- C. **Active Resistance** - The person’s verbal or physical actions are intended to prevent an officer from placing them in custody and rendering the situation safe, but are not directed at harming the officer. Examples include: walking or running away, breaking the officer’s grip.

----- **OFFICER’S PERCEPTION OF PERSON’S INTENT TO HARM** -----

- D. **Aggressive Resistance** - The person displays by their behavior the (perceived) intent to harm the officer, themselves or another person and prevent an officer from placing them in custody and rendering the situation safe. The aggression may manifest itself through a person taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions that present an imminent threat of physical harm to the officer or another.
- E. **Aggravated Aggressive Resistance** - The person’s actions are likely to result in death or serious bodily harm to the officer, themselves or another. These actions may include a firearm, use of blunt or bladed weapon, and extreme physical force.

VII. LEVELS OF CONTROL

When officers are called upon to respond to resistance or aggression, officers will assess each incident to determine based on policy, training, and experience, which response to an individual’s resistance or aggression is believed to be objectively reasonable for the situation. Any use of force beyond compliant handcuffing is a reportable use of force.

- A. **Low-Level Force** – Low-level force is a level of force or control that is neither likely nor intended to cause injury, such as restraining, controlling, or handcuffing any person for a lawful purpose.

This level of force includes:

1. Officer presence
2. Verbal communication
3. Soft empty-hand tactics (escorts, forced handcuffing, takedowns with low potential of injury)
4. Handcuffs/other department-approved restraint devices
5. ASR / chemical aerosol spray
6. Canine (presence)
7. Weapon pointing (ECD, less lethal, firearms)
8. Less-lethal weapons and munitions

- B. **Intermediate Force** - A level of force that has the potential to cause injury or substantial pain, and is greater than Low-Level Force.

This level of force includes:

1. Hard empty-hand tactics (strikes, kicks, takedowns that may cause potential injury)
2. Baton/impact tools (jabs, strikes)
3. ECD
4. Less-lethal weapons and munitions

5. Canine apprehension

- C. **Deadly Force** - Deadly force is that degree of force that is likely to produce death or serious bodily injury. Deadly force can also result from a force option being improperly applied. In order for the use of deadly force to be justified, at least one of the parameters and all elements must be present. Examples of deadly force include but are not limited to:
1. Baton (striking head, neck, sternum, spine, groin, or kidneys)
 2. Less-lethal weapons and munitions (deadly force areas)
 3. Vehicle ramming/tactics
 4. Firearms

Parameters for Use of Deadly Force (MN State Statute 609.066)

Under Minnesota state statute, an officer may only use deadly force upon another person when it is objectively reasonable to:

1. Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury;
2. Arrest or capture, or prevent the escape of a person the 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; or
3. Arrest or capture, or prevent the escape of a person the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony, but only if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

Elements of Deadly Force

1. **Ability** - Ability exists when a person has the means or capability to cause grave injury, serious bodily harm or death to an officer or another. This may include, but is not limited to the person's physical ability, size, age, strength, combative skill, level of aggression, and any weapons in their immediate control.
2. **Opportunity** - Opportunity exists when a person is in a position to effectively resist an officer's control or to use force or violence upon the officer or another. Examples that may affect opportunity include relative distance to the officer or others, and physical barriers between the subject and the officer.
3. **Imminent Jeopardy** - Based upon all the facts and circumstances confronting the officer, the officer reasonably believes the individual poses an imminent threat to the life of the officer(s) or others and the officer must act immediately to prevent death or serious bodily injury.

**246.01 RESPONSE TO RESISTANCE OR AGGRESSION PROCEDURE, DUTY TO INTERVENE,
RESPONDING TO PERSONS IN CRISIS, AND DE-ESCALATION**

Draft date January 16, 2018

- I. USE OF FORCE TO DETAIN, ARREST, OR SEARCH
- II. DUTY TO INTERVENE
- III. RESPONDING TO PERSONS IN CRISIS
- IV. DE-ESCALATION

I. USE OF FORCE TO DETAIN, ARREST, OR SEARCH

- A. Minnesota Statutes section 609.06 authorizes peace officers to use reasonable force for the following reasons:
 - 1. To protect themselves;
 - 2. To protect others;
 - 3. To make a lawful arrest;
 - 4. To execute a legal process;
 - 5. To enforce an order of the court; or
 - 6. To execute any other duty upon a public officer by law.
- B. Before using force, officers will announce their presence, provide lawful orders, and give individuals an opportunity to respond whenever safe and reasonable under the circumstances.

II. DUTY TO INTERVENE

Officers have a duty to intervene to prevent the use of excessive force. Any officer present and observing another officer using force that is clearly unreasonable under the circumstances must, when in a position to do so safely, intervene to prevent the use of excessive force. Officers must promptly report any excessive or unreasonable force to a supervisor.

III. RESPONDING TO PERSONS IN CRISIS

All seizures, including seizures for the purpose of taking individuals into custody for treatment, must be reasonable under the Fourth Amendment. Reasonableness is determined on a case-by-case basis. When there is no suspicion of criminal activity, any use of force must be based on the belief that the action is reasonable to protect the subject or others from the threat of imminent physical harm. *Frederick v. Mottsinger*, 873 F.3d 641, 647 (8th Cir. 2017).

There are many reasons a person may be resisting arrest or may be uncooperative or unresponsive. A person may be non-compliant due to a medical condition, mental, physical, or hearing impairment, language barrier, or emotional crisis, and have no criminal intent. This may not make the individual any less dangerous but it may require a change in tactics that will be more effective while maintaining officer safety, if these circumstances are known to the officer.

In determining the reasonableness of a response to an individual in crisis, officers may consider the following:

1. Whether the individual poses an imminent threat of harm to themselves or others,
2. Whether some degree of force is reasonably necessary to address the threat, and
3. Whether the force option used is reasonable under the circumstances.

Furthermore, responses to individuals in crisis must also comply with the requirements of General Order 403.00.

IV. DE-ESCALATION

At times an officer must exercise control of a violent or resisting person to make an arrest, or to protect the officer, other officers, or members of the community from the risk of imminent harm. Not every potential violent confrontation can be de-escalated, but officers have the ability to impact the direction and the outcome of many situations they handle based on their decision-making and the tactics they choose to employ.

When reasonable under the totality of circumstances, officers should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response. Officers should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force. Officers should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of force options. Officers must perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.

The prospect of a favorable outcome is often enhanced when supervisors become involved in the management of an overall response to potentially violent encounters by coordinating resources and officers' tactical actions. Supervisors should possess a good knowledge of tactics and ensure that officers under their supervision conform to these General Orders. As a good practice, supervisors will acknowledge and respond to incidents in a timely manner where law enforcement use of force is probable.

**246.02 AUTHORIZED FORCE TOOLS, DESCRIPTION, TRAINING
REQUIREMENTS, USES AND CONSIDERATIONS.**

Draft date January 16, 2018

- I. TRAINING REQUIREMENTS
- II. PRESENCE & VERBAL COMMUNICATION
- III. EMPTY HAND TACTICS
- IV. RESTRAINTS
- V. BATON/IMPACT TOOLS
- VI. AEROSOL SUBJECT RESTRAINT/ AERKO FREEZE + P
- VII. ELECTRONIC CONTROL DEVICE
- VIII. SPECIALTY IMPACT WEAPONS AND MUNITIONS
- IX. FIREARMS

I. TRAINING REQUIREMENTS

Officers will receive training and instruction (and, where necessary, must qualify for certification and recertification) regarding the appropriate use of any response to resistance or aggression authorized by this department. This policy supersedes any and all previous policies and training related to response to resistance or aggression and the use of force.

The department will train officers on approved responses to resistance or aggression. Academy instruction and in-service training will include, but not be limited to, a review of department policies and laws regarding responses to resistance or aggression and any changes to applicable laws, regulations, policies, practices, procedures, or techniques. Officers will also receive training on de-escalation principles, their duty to intervene, the sanctity of life, and prompt rendering of first aid. Annual training will be scheduled according to department requirements. Current training supersedes prior training.

With minimal exception in exigent circumstances, only department-approved tools and techniques may be used. The training unit is responsible to maintain documentation of department-authorized tools and techniques. Uniformed officers will only carry department-authorized tools and equipment as required by these General Orders.

All officers, regardless of rank, will participate fully in training and put forth effort. If an officer has an injury or disability that would prevent them from training, they will be required to supply police human resources with documentation of the injury or disability prior to any training.

Any officer who misses required training due to leave, including sick, medical, or other leave of absence, must make arrangements with training staff to receive the training missed prior to resuming duty. Failure to do so may result in discipline.

Supervisors will ensure that officers under their supervision complete the minimum training required by the department and these General Orders.

If an employee fails to demonstrate proficiency during training, the training unit will contact the employee and the employee's supervisor as soon as practical to formulate a remedial training program.

The following are authorized techniques and tools that may be used when objectively reasonable and otherwise permitted under this policy. Specialized units may have additional tools that are not covered in this policy.

II. PRESENCE & VERBAL COMMUNICATION:

Level of Control:

- Low Level Force

Approved Use:

- Officers will, when and to the extent reasonably possible, attempt to use verbal communication to resolve an encounter.

III. RESTRAINTS

Level of Control:

- Low-Level Force – Handcuffs, Flexible Handcuffs.
- Intermediate Force – Leg Restraints

Description:

- Officers use restraints for the protection of subjects, third parties, and themselves. Appropriate restraint prevents individuals from damaging property, and more importantly, from injuring themselves or others.
- Officers will only use department-authorized or approved handcuffs and leg restraints, disposable plastic/fabric restraints, hospital-style leather or fabric human restraints, and equipment specifically designed to secure the legs of a subject.

Certification/Training Requirements:

1. Entry-level training is taught during academy.
2. Included in Defensive Skills Training.

Inspection Requirement:

- Handcuffs will be maintained in clean and working order.

Approved Use:

1. This tool may only be used according to department policy and training.
2. In an attempt to minimize the risk of injury to officers and others during arrest situations, officers will handcuff all persons arrested as soon as reasonably possible.
3. Officers may handcuff an individual during investigative detentions (“Terry Stops”) where one or more of the following factors is present:
 - a. Articulable facts that the subject is physically uncooperative;
 - b. Articulable facts that a subject’s actions at the scene may present physical danger to themselves or others if not restrained;
 - c. Reasonable probability of flight based on the action of the subject;
 - d. Information that the subject is currently armed;
 - e. The stop closely follows a violent crime and the subject matches specific parts of a description;
 - f. When there are articulable facts that a crime of violence is about to occur;
 - g. Care and discretion should be used when the subject is at extremes of age (elderly and young children) or physically disabled.
 - h. The authority to handcuff during investigatory stops continues only as long as the circumstances above exist.
4. Suicidal persons may be restrained if they are a danger to themselves or others.
5. During a search warrant service:
 - a. At a private residence as reasonably necessary to execute the warrant in safety;
 - b. At a commercial business open to the public if it reasonably appears that handcuffing is necessary to protect an officer or others from physical harm.

Circumstances that justify initial handcuffing may change and eliminate continued justification.

6. Persons being transported to detoxification facilities may be handcuffed for safety.
7. Handcuffs should only be removed once the subject is in a secure area and escape and non-compliance is no longer a concern.
8. Whenever possible, for added security, subjects should be seat belted in the rear of a squad car after handcuffing and before transport.

(See General Order 409.06: Transportation of Prisoners and Victims)

Disapproved Use:

1. If officers know or reasonably believe that medical circumstances make it unreasonable to handcuff an individual, officers should refrain from handcuffing.
2. When responding to a security office where a subject has already been placed in handcuffs prior to arriving to the scene; officers shall not place SPPD handcuffs on the subject until they have reasonable suspicion for detention or probable cause for arrest based on their independent investigation and findings.

Tactical Considerations:

1. Officers will check handcuffs for tightness and double lock handcuffs as soon as it is safe to do so prior to transport.
2. When a handcuffed subject first complains that handcuffs are too tight and/or are hurting the subject, the officer having custody of the handcuffed person will, as soon as reasonably possible, check the handcuffs to make sure that they are not too tight. If they are too tight, they will be loosened and double locked.

Leg Restraint Procedure:

The preferred transportation method for all subjects requiring leg restraint is by SPFD ambulance. In the rare circumstance where this is not possible and leg restraint is necessary the following procedure will be followed:

1. If practicable, officers should notify a supervisor of their intent to apply a leg restraint.
2. In all cases, a supervisor must be notified as soon as possible after the application of the leg restraint device.
3. Only leg restraint devices approved by the department may be used.
4. Once secured, the subject should be placed in a seated or upright position, secured with a seat belt, closely monitored, and must not be placed on his/her stomach for an extended period as this could reduce the person's ability to breathe.
5. The leg restraint device must not be attached in any way to the subject's handcuffs.
6. Officers must monitor restrained subjects and should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

Suspects or persons who appear to be mentally or emotionally impaired and who must be totally restrained must be transported by SPFD ambulance and restrained by appropriate personnel on a gurney unless situations reasonably dictate otherwise.

Additional Considerations:

- Summon medical attention when a subject is injured and/or complains of injury.
- Any incident where a subject is injured or complains of injury is a reportable use of force.

IV. EMPTY-HAND TACTICS:

Level of Control:

- Low Level Force – Soft empty-hand tactics, escorts, takedowns not likely to cause injury,

- Intermediate Force – Hard empty-hand tactics, strikes, knees, kicks, takedowns that are likely to cause potential injury,
- Deadly Force - takedowns, strikes, kicks that are done in a manner likely to cause great bodily harm.

Certification/Training Requirements:

1. Entry-level training is taught during academy.
2. Included in Defensive Skills Training.

Approved Use:

1. These tactics may only be used according to department policy and training.
2. Officers should only use tactics appropriate to the situation and that have been taught by department RRA tactics instructors.
3. Officers may only use hard empty-hand tactics as authorized and trained by the department. Hard empty-hand tactics must be limited to only the level of force that is reasonable in the context of the encounter, the use must be objectively reasonable under the totality of the circumstances.

Disapproved Use:

1. Hard empty-hand tactics, including strikes and kicks, are not authorized against individuals who are not physically aggressive or who pose no imminent threat of harm to the officer or others.

Additional Considerations:

- Summon medical attention in any incident where an individual is injured or complains of injury.
- Any hard empty-hand tactics is a reportable use of force.

V. AEROSOL SUBJECT RESTRAINT (ASR) / AERKO FREEZE + P:

Level of Control:

- Low-level Force (active resistance)

Description:

1. Aerko Freeze +P is a non-lethal agent containing an OC/CS blend that causes inflammation of the skin and mucus membranes of a subject. The intended effects are temporary and is used to control or restrain an actively resisting person.
2. All sworn police personnel the rank of commander and below must be certified and carry Areko Freeze + P spray when in an approved department uniform.
3. Plain clothes officers are required to carry ASR spray, an ECD, or a baton, unless otherwise approved by their commander.

NOTE: SWAT and MFF personnel are exempt from these provisions during tactical operations, and will follow their own training and standard operations procedures (SOP).

Certification/POST Requirements:

1. Entry-level training is taught during academy.
2. Included in Defensive Skills Training.

Inspection Requirement:

1. Areko Freeze + P spray expiration date and serviceability will be checked.
2. If the container is damaged, malfunctions, nears empty, or the date on the canister is illegible or expired, a new canister will be issued to the officer from the central supply room with the original being turned in.

3. Should an officer lose an ASR, details of the loss should be documented in a written report and signed by a supervisor.

Deployment Requirement:

1. When deploying, an officer will, if practical, announce a warning to the subject and other officers of their intent to deploy ASR if the subject does not comply with commands. Example, "Do what I am telling you to do, or I will spray you with pepper spray."
2. Officers must give the subject a reasonable opportunity to voluntarily comply when safe to do so.

Approved Use:

1. ASR Spray may only be used according to department policy and training.
2. ASR spray may be used when a subject is engaging in or displays the intent to engage in active resistant behavior.
3. ASR spray may be used on vicious or aggressive animals when those animals interfere with the safety of the officers or citizens.
4. ASR spray may only be used in a protest or demonstration situation when authorized by an incident commander in response to an imminent threat of harm.

Disapproved Use:

1. ASR may not be used on a subject inside a closed vehicle (this provision does not apply to an officer attempting to secure an aggressive resistant subject in a patrol vehicle).
2. ASR is not intended to be used to force extraction from an enclosed area.
3. ASR may not be used on passive resistant individuals.
4. ASR may not be used other than as an aerosol/stream.
5. ASR may not be used on a handcuffed subject unless the subject is displaying Aggressive Resistance.

Tactical Considerations:

1. Whenever possible, ASR should be used upwind and relatively close to the subject.
2. High capacity ASR spray may be used as an intermediate level of control; however, officers should consider the effect the device will have on subjects and others in the general area due to the volume of agent dispersed.

Additional Considerations:

- Call for medical attention in any incident where a subject is injured or complains of injury beyond expected effects.
- Notify a supervisor when ASR Spray has been used.
- Inform detention personnel when a subject has been exposed to ASR Spray and ensure they have been screened by the detention facility medical staff.
- The use of ASR Spray on a subject is a reportable use of force.
- The department allows certain classifications of civilian employees to carry chemical aerosol spray while on duty. Civilian employees have no power of arrest and therefore may only use force consistent with Minnesota law on self-defense or defense of others. When ASR Spray is used by a civilian member of the department, a patrol officer and supervisor will respond to the scene to assist with enforcement action.

VI. RIGID & EXPANDABLE BATON/ IMPACT TOOLS:

Level of Control:

- Low-Level Force - when used as an escort tool.
- Intermediate Force - when used for jabbing or striking.
- Deadly Force - striking subjects on the head, neck, sternum, spine, or groin.

Description:

1. A baton is a department-authorized expandable straight baton or rigid baton.

2. All sworn police personnel the rank of commander and below must be certified and carry the baton when in an approved department uniform.
3. Plain clothes officers are required to carry either ASR spray, an ECD, or a baton.

Certification/Training Requirements:

1. Entry-level training is taught during academy.
2. All officers must complete the following requirements:
 - a. Initial baton training in the academy; or
 - b. A minimum of four (4) hours of initial expandable straight baton training by a certified SPPD RRA Tactics Instructor.
3. Included in Defensive Skills Training.

Inspection Requirement:

1. Batons will be maintained in clean and working order.
2. Should an officer damage or lose a baton, details of the loss should be documented in a written report and signed by a supervisor.
3. Officers may only purchase and carry a replacement baton that is authorized by the department.

Deployment Requirement:

1. Before using a baton, an officer will, if practical, announce a warning to the subject and other officers of their intent to use a baton/impact tool if the subject does not comply with commands. Example, "Do what I am telling you to do, or I will strike you with my baton."
2. Officers must give the subject a reasonable opportunity to voluntarily comply.

Approved Use:

1. This tool may only be used according to department policy and training.
2. Blocking, jabbing, to apply control holds, or passive/active escort techniques.

Disapproved Use:

1. Batons are not authorized to be used as impact weapons with individuals who are not physically aggressive or who pose no imminent threat of harm to the officer or others.
2. During non-deadly force incidents, officers will use reasonable care to avoid striking subjects on the head, neck, sternum, spine, groin, or kidneys, as these strikes may constitute deadly force.
3. Officers should not use their firearm as an impact tool in non-deadly force incidents due to the possibility of an unintentional discharge.
4. Officers must be able to articulate a compelling need to use any other device or object other than an authorized baton as an impact tool.

Additional Considerations:

- Call for medical attention on all strikes with a Baton/Impact tool and any incident where a subject is injured or complains of injury.
- Notify a supervisor when a Baton/Impact tool has been used.
- All strikes or any incident where a subject is injured and/or complains of injury is a reportable use of force.
- The use of instruments (flashlights, radio, etc.), as a weapon for the purpose of striking or jabbing, other than department-authorized batons is strongly discouraged and acceptable only when other authorized force responses have been exhausted and are either unavailable or ineffective.

VII. ELECTRONIC CONTROL DEVICE (ECD)

Level of Control:

- Intermediate Force

Description:

1. Minnesota Statutes section 624.731 authorizes peace officers to use Electronic Control Devices.
2. The ECD is a Neuro-Muscular Incapacitation (NMI) device that disrupts the body's ability to communicate messages from the brain to the muscles thereby causing temporary NMI.
3. An air cartridge is a replaceable ECD cartridge that uses compressed nitrogen to fire two barbed probes on thin connecting wires, sending a high voltage/low current signal.

Certification/POST Requirements:

1. Entry-level Training is taught during academy.
2. RRA Tactics instructors who have been certified as ECD instructors are the only individuals authorized to instruct on the ECD.
3. Officers authorized to use an ECD must successfully complete an initial six-hour certification course, to include written and practical tests.
4. Once certified, all officers must annually attend recertification training taught by the department training staff.
5. If an employee fails to demonstrate proficiency at any time, the employee and/or the employee's supervisor will contact the training unit for assistance in formulating a remedial training program.

Inspection Requirement:

1. Officers will only use authorized ECD equipment issued by the SPPD. The ECD will be inspected for damage and cleanliness, and batteries and cartridges replaced by the officer when required. The ECD will be inspected and maintained in accordance with training protocols. When not being carried, ECDs must be stored and secured in a climate-controlled area (i.e. locker), not in a vehicle.
2. Officers should conduct a spark check, outside the public view, at the beginning of shift to ensure the ECD will function properly. This spark check does not require completion of a use-of-force report.
3. Uniformed officers will carry the ECD in a department-approved holster. The holster will be carried on the duty belt, on the side opposite the duty firearm. Cross-draw position is optional. Plain clothes officers who are issued an ECD will carry the device on their weak side. Officers have the option of carrying the standard DPM or the X-DPM.
4. The training unit staff will maintain an inventory of all department-issued ECDs, including an accurate record of the location of the weapon and maintenance history.

Deployment Requirement:

1. When displaying an ECD, officers will give a warning, when practical, to the subject and other officers before firing the ECD. Example: "Do what I am telling you to do or I will Tase you and it will hurt."
2. Officers must give the subject a reasonable opportunity to voluntarily comply when safe to do so.

Note: Officers should be aware of the higher risk of sudden death that may exist in subjects under the influence of illicit drugs and/or exhibiting symptoms associated with excited delirium. In addition, once a subject has received an ECD application; officers should be aware of the potential for impaired breathing during restraint procedures. If the subject is thought to be experiencing impaired breathing, they should be placed on their side to reduce the risk of aspiration and medical attention should be summoned. Severely impaired breathing could result in death.

Approved Use:

An ECD may only be used to mitigate the threat of imminent physical harm presented by an aggressive subject. In addition to this general requirement, ECD may only be used on a

person officers know or reasonably believe to be mentally or emotionally impaired if the individual is:

1. A threat to an officer's or another individual's safety, or
2. A significant and at least proportional threat to themselves.

Disapproved Use:

1. Officers are not authorized to draw or display the ECD except for training and inspection, unless the circumstances create a reasonable belief that use may be necessary.
2. The intentional use of more than one ECD simultaneously on the same subject is prohibited without reasonable justification.
3. The ECD will not be used:
 - a. When the officer knows a subject has come in contact with flammable liquids or is in a flammable atmosphere;
 - b. When the subject is in a position where a fall may result in serious bodily harm or death;
 - c. Punitively for purposes of coercion or in an unjustified manner;
 - d. To escort or jab individuals;
 - e. To awaken unconscious or intoxicated individuals;
 - f. When the subject is visibly pregnant, unless deadly force is the only other option;
 - g. When a subject displays solely Passive or Active Resistance (i.e. peaceful protest, refusal to stand, non-aggressive verbal resistance, etc.);
 - h. When a subject is fleeing as the sole justification for use of the ECD.
4. The ECD should not be used in the following circumstances unless there are compelling reasons to do so that can be clearly articulated:
 - a. When the subject is in handcuffs or waist restraints;
 - b. When the subject is in control of a motor vehicle;
 - c. When the subject is holding a firearm, unless there is an additional officer providing lethal cover;
 - d. When the subject is at the extremes of age (elderly and young children), or physically disabled;
 - e. In a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officers and others as necessary.

Tactical Considerations:

1. There are three types of reportable ECD applications:
 - a. Spark Display - A non-contact demonstration of the ECD's ability to discharge electricity.
 - b. Drive Stun - A pain compliance application of the ECD without a cartridge intended to gain compliance of a subject or used to complete a circuit by making direct contact with the body after the air cartridge has been expended or removed.
 - c. Probe Mode - When the ECD cartridge is fired at a subject with the intent that the subject will be temporarily immobilized for the period of time the ECD is cycled. Proper application will result in temporary immobilization of the subject and provide the officer a "window of opportunity" in which to take the subject safely into custody.
2. Officers should target an individual's back for ECD application when practical. For a frontal application, a reasonable effort should be made to target lower center mass and avoid intentionally targeting the head, neck, groin and chest. It is recognized that the dynamics of each situation and officer safety may not permit the officer to limit the application of the ECD probes to a precise target area.
3. When deploying an ECD:
 - a. Initial use of the ECD will be a standard five-second cycle. The officer must then evaluate the need to apply a second five-second cycle after providing the subject a reasonable opportunity to comply. Each subsequent five-second cycle requires separate justification based on the objectively reasonable standard of *Graham v. Connor*, 490 U.S. 386 (1989).

- b. Once the subject has been exposed to three cycles, ECD will be deemed ineffective and another use-of-force option must be considered, unless exigent circumstances exist;
- c. Begin control and restraint procedures, including cuffing under power, as soon as is reasonably safe and practical to do so in order to minimize the total duration of ECD exposure. The device user, and those assisting the user, should avoid touching the probes, wires, and the areas between the probes to avoid accidental shock during the electrical discharge;
- d. The use of the “drive stun” mode should only be used to supplement Probe Mode to complete the Neuro-Muscular Incapacitation (NMI) effect. The ECD “drive stun” mode requires the same level of justification and reporting as probe deployment.

Additional Considerations:

- Summon medical attention in any incident where a person is injured or complains of injury.
- Notify a supervisor when ECD has been used (Spark Display, Probe or Drive Stun).
- Inform detention personnel when an ECD has been used on the subject (Probe or Drive Stun) and ensure the individual is screened by the detention facility medical staff.
- Any use of ECD on a subject is a reportable use of force, with the only exception being a spark check out of public view. Note: Any accidental discharge of an ECD other than at a subject will be documented on an officer’s report.
- If the subject is thought to be experiencing impaired breathing, they should be placed on their side to reduce the risk of aspiration.

VIII. 40mm Less Lethal Specialty Impact Munitions (SIMS)

Level of Control:

- Intermediate Force

Description:

1. The department provides officers access to less lethal launchers equipped with specialty munitions to increase officer, suspect, and bystander safety.
2. SIMS for this policy refers to the 40mm launching platform and eXact iMPact munitions
3. "Less lethal munitions" or 40mm Less Lethal Specialty Impact Munitions (SIMS) means projectiles designed to cause injury, stun, temporarily incapacitate, or cause temporary discomfort to a person.
4. No part of this policy restricts the issuing, training, and deployment of SIMS by members of S.W.A.T. when authorized by the S.W.A.T. commander during a S.W.A.T operation or by members of Mobile Field Force when authorized by the M.F.F. commander during a M.F.F. operation.

Certification/POST Requirements:

1. The S.W.A.T. /M.F.F. units will conduct SIMS qualifications and training to ensure that officers maintain proficiency with the weapon. Any officer who misses an annual qualification or training without prior approval will be subject to removal from the SIMS operators list.
2. Sergeants assigned to the operations division as patrol supervisors will be required to attend training and qualifications for SIMS as conditions of this assignment. Newly appointed patrol supervisors will be required to attend this training within one (1) month of assignment to the operations division as a patrol supervisor and will be responsible for coordinating this training with M.F.F. Command.

Inspection Requirement:

1. The definition of an officer in this policy is a sergeant, an authorized officer designated by deputy chief of operations, a F.O.R.C.E. unit sergeant, or a qualified

operator of the 40mm less lethal from the S.W.A.T. or M.F.F. units, under the direction of a patrol sergeant. SIMS deployment under this policy is restricted to an officer that meets the following criteria:

No officer may carry or deploy any SIMS until the officer has successfully completed a SIMS operator's course conducted by the department and has authorization of their unit/district commander. Officers will be required to attend all department qualifications and maintain proficiency with the use of SIMS. The deputy chief of operations will maintain the SIMS operator list of those officers who have met the requirements and are authorized to carry and deploy with SIMS. The deputy chief of operations may remove any officer from the SIMS authorized operators list who has violated any part of this policy or failed to maintain proficiency with SIMS.

2. MFF will issue SIMS to the patrol districts, downtown patrol unit, ACOP and any other unit as authorized by the deputy chief of operations. District and unit commanders are responsible for the assigned SIMS at all times. A quarterly inventory will be conducted by the district/unit commander to ensure that all SIMS assigned to their unit remain in the departments possession at all times.
3. SIMS operators will be required to secure the SIMS in their department vehicle in a manner to prevent loss or theft. The SIMS will be secured in one of the long gun racks in the patrol vehicle, secured in a case within the trunk, or secured with a gun lock within the passenger area of the vehicle. SIMS may not be stored in the department vehicle between shifts and they remain the responsibility of the operator at all times. Operators leaving a vehicle at the public safety garage for repairs must remove the SIMS from the vehicle.
4. The department will track munitions issued and discharged by unit. If a unit discharges SIMS, that unit must document that use in an incident report and use-of-force report. Units must replace deployed munitions and will request replacement munitions from the M.F.F. The M.F.F. Commander, or designee, must record the number of eXact iMPact SIMS munitions issued, the complaint number for each discharge, the requesting unit and sergeant's name requesting the munition. The number of munitions dispersed to the each unit will be verified by the inspections unit semi-annually and reported to the deputy chief of operations.
5. Unit and district commanders will ensure that their units follow department procedures for checking out and returning SIMS. The SIMS must be signed out from storage and returned to storage by a sergeant who will be required to record the serial number of the 40mm launcher and the designation of eXact iMPact munitions, date and time of check out, and return. MFF staff will work with district and unit commanders to develop methods for securing SIMS when they are not deployed.
6. The department will issue three (3) 40mm launchers to each patrol district, one (1) to the downtown patrol unit, and one (1) to ACOP. Each 40mm launcher deployment is to include a 40mm launcher, patrol munitions, patrol munitions bag, sling, and optic. Each patrol district will be issued thirty (30)

eXact iMpacT munitions for deployment. The downtown patrol unit and ACOP will be issued ten (10) eXact iMpacT munitions for deployment. The 40mm launchers are assigned to the MFF and may be required for MFF operations, thus are subject to recall to MFF at any time until they are no longer needed for MFF operations.

Deployment Requirement:

Operators who have met the requirements of this policy may deploy with SIMS after getting authorization from a supervisor, either in person or by requesting permission over the air. The deployment of the SIMS is considered an impact weapon; however discharge of SIMS falls above other impact weapons and below deadly force levels of response to resistance or aggression and should only be deployed when the requirements of this policy have been met.

Approved Use:

Sergeants should only deploy, authorize, or direct the deployment of SIMS when the deployment is objectively reasonable under the circumstances. Examples of the reasonable deployment of SIMS would include circumstances where less-lethal force is reasonable, and the behavior of the suspect has limited an officer's ability to safely use other less-lethal force options.

Examples of circumstances appropriate for SIMS deployment

Examples include, but are not limited to, the following types of situations where the subject:

- Is armed with a weapon and the tactical circumstances allow for safe application of the SIMS.
- Has made credible threats to harm him/herself or others.
- Is engaging in behavior that threatens the safety of officers or others.
- There is probable cause to believe that the suspect has already committed a felony crime of violence and is refusing to comply with lawful orders.

Tactical Considerations:

- This policy does not require sergeants to use or direct the use of SIMS in place of other response options authorized by these General Orders. The safety of victims, hostages, uninvolved persons, and officers takes priority over the safety of subjects engaged in violent criminal or suicidal behavior.
- SIMS should only be deployed when there is a cover officer specifically assigned to the SIMS operator for the duration of the SIM's deployment.
- Prior to deployment, if possible, SIMS operators deploying with SIMS will notify the dispatcher and other officers by radio that they are deploying a SIMS at their location.
- Prior to deployment of SIMS the operator of less lethal should, when practical to do so, give clear instructions to the subject. Similar but not limited or specific to: "SAINT PAUL POLICE DROP THE WEAPON, DROP THE WEAPON AND GET DOWN ON THE GROUND. IF YOU DO NOT DROP THE WEAPON I WILL USE FORCE AGAINST YOU." Prior to discharging a SIMS the operator will announce in a loud voice "less lethal, less lethal, less lethal" to alert all officers present to the discharge.

Additional Considerations:

Procedure for First Aid

Officers must render appropriate first aid to any person who has been impacted by specialty munitions.

1. After the individual is apprehended, regardless of whether injuries are reported or observed, officers must take the following actions as soon as it is safe to do so:
 - A. Call Saint Paul Fire Emergency Medical Services to respond to assess the individual.
 - B. Locate the impact area on the subject.
 - C. Request that a camera car respond and photograph the impact site (regardless of whether there is a visual indication at the impact site).
 - D. Transport the individual to booking.
2. If any of the following occur, the subject must be transported by Saint Paul Fire Emergency Medical Services to a medical facility for evaluation:
 - A. Impact to a person's face, neck, groin, chest, abdomen, or spine.
 - B. The impact caused an open wound or obvious injury.
 - C. The person struck by an eXact iMPact SIMS round has a learned or observed medical condition.

Documenting

- An incident report and use-of-force report must be completed by the operator for all incidents involving the threat or deployment of SIMS.

Evidence

1. Specialty munitions and components may have evidentiary value. Collect all portions of used munitions (spent cartridges case and projectile). Turn these components into the property room (see General Order 439.02: Submitting Property/Evidence). Projectile(s) collected may be destroyed six years from date of deployment, unless needed as evidence in a criminal or civil proceeding.
2. Officers will photograph the scene and the eXact iMPact contact sites on the subject's body at the scene and prior to booking at the Ramsey County Law Enforcement Center.

IX. FIREARMS

Level of Control:

- Deadly Force

Description:

As long as members of the general public remain potential victims of violent crime and officers, in the performance of their duties, continue to be confronted with deadly force, it will remain necessary for peace officers to be armed. Officers are equipped with a firearm to defend the public and the officer against great bodily harm and deadly force.

Deadly Force:

Minnesota Statutes section 609.066 defines "deadly force" as "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.”

Statutory Authorization for Use of Deadly Force:

Minnesota Statutes section 609.066 authorizes the use of deadly force by peace officers in the line of duty only when necessary to:

- Protect the peace officer or another from apparent death or great bodily harm.
- Arrest or capture, or prevent the escape of a person the 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.
- Arrest or capture, or prevent the escape of a person the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony, but only if the officer reasonably believes that the person will cause death or great bodily harm if the person’s apprehension is delayed.

Certification/POST Requirements:

Before being authorized to carry a firearm, all officers will receive training and instruction with regard to the proper use of deadly force, the department’s policies regarding officer response to resistance or aggression, and applicable state statutes and regulations. Such training and instruction will continue throughout the officer’s career.

Authorization to Use Deadly Force:

The Saint Paul Police Department honors the sanctity of life. Accordingly, an officer may resort to deadly force only when objectively reasonable under a totality of the circumstances - as authorized by Minnesota Statutes section 609.066.

When Deadly Force is Not Authorized:

- It is unlawful to use deadly force against nonviolent, suspected misdemeanants who are not fleeing or resisting arrest, and pose little or no threat to the officer or public. *Johnson v. City of Ferguson*, Missouri, No. 16-1697, 2017 WL 3139437, at *6 (8th Cir. July 25, 2017).
- Officers are not authorized to discharge a firearm in circumstances where deadly force is not authorized by Minnesota Statutes section 609.066.

Additional Considerations:

- An officer may threaten the discharge of or discharge a firearm only when reasonable and necessary.

- Where reasonable, some type of warning should be given by the officer prior to using deadly force.
- An authorized warning shot may be used in a felony situation where deadly force is justified (see below).
- Officers may discharge service weapons during target practice or competition on an approved target range.
- Officers may discharge a firearm to destroy an apparently dangerous animal or one that is so sick or so badly injured that humanitarian concerns dictate this action. (See below).
- Should an officer use any force that results in the death of a person, for administrative and investigative purposes, the officer will be temporarily removed from line-duty assignment in accordance with General Order 246.09. The officer's unit or division commander, or EAP, may make recommendations to the chief of police concerning this restriction, but the chief of police has all final authority. (See General Order 246.09: Investigations – Incidents Where Serious Injury or Death Result During Police Custody or Involvement)

Destroying Animals

When an animal appears to be critically injured (as opposed to dangerous), and animal control is not readily available, an officer must secure the owner's permission before destroying the animal. In the event it appears that the animal is not only critically injured, but also dangerous, an officer is authorized to destroy the animal for humanitarian reasons and for the safety of the officer or others. If the owner is not readily available, the names and addresses of witnesses to verify the animal's apparent status must be obtained, and the officer must file an incident report and use-of-force report documenting the officer's actions and including witness information. A copy of the officer's report of the incident must be sent to internal affairs.

If the owner is present, it is the owner's responsibility to make arrangements for the animal. If the owner is not present, cannot be located, or refuses to make arrangements, the city's public works department should be contacted.

Use of Firearm at/or from a Moving Vehicle:

Officers are not authorized to shoot from a moving vehicle at a fleeing vehicle. It is best to attempt apprehension from a position of superior tactical advantage, if possible, by using police communications and cooperative police work rather than by firing at a moving vehicle.

Firearms must not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with great bodily harm or deadly force. The moving vehicle itself does not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle should make every attempt to move out of the path of the oncoming vehicle unless such an attempt would unreasonably expose the officer or another to the risk of death or great bodily harm. The officer must consider the obvious danger of firing at a moving vehicle, since bullets may miss their target

and/or the driver may lose control. Such risks, in most cases, weigh against firing at a moving vehicle.

Holster Requirement

All department-issued handguns and any handgun carried while on duty must be carried in a holster designed for that handgun. Officers wishing to carry a handgun without a holster may only do so with the permission of their unit head and the training unit commander.

**246.03 REPORTABLE RESPONSES TO RESISTANCE OR AGGRESSION /
OFFICER & SUPERVISOR RESPONSIBILITIES**

Draft date January 16, 2018

- I. REPORTABLE RESPONSES TO RESISTANCE OR AGGRESSION
- II. INVESTIGATIONS AND REPORTING
 - A. DEPARTMENT RESPONSIBILITIES
 - B. OFFICER RESPONSIBILITIES
 - C. SUPERVISOR RESPONSIBILITIES

I. REPORTABLE RESPONSES TO RESISTANCE OR AGGRESSION

All responses to resistance or aggression beyond compliant handcuffing or one of the exceptions listed in this policy must be reported by the involved officer in an incident report and a use-of-force report. Reportable responses to resistance or aggression include, but are not limited to:

- A. Empty hand tactics (resistive handcuffing, takedowns, strikes, kicks)
- B. Baton/impact tool (jabs, strikes)
- C. ASR spray
- D. ECD (spark display, drive stun and probe deployment)
- E. Firearm display (pointed at subject)
- F. Canine apprehension
- G. Specialty weapons or munitions
- H. Use of force with a vehicle
- I. Use of force with a firearm

Note: In addition to the use-of-force report other reports may be required depending on the force application (e.g., vehicle pursuit).

Supervisors must promptly respond to all potentially reportable responses to resistance or aggression.

II. INVESTIGATIONS AND REPORTING

- A. **Department Responsibilities.** The department reviews or investigates all reportable responses to resistance or aggression to determine whether the action complies with department policy, as well as to address any identifiable training needs.
- B. **Officers Responsibilities:** Officers involved in reportable responses to resistance or aggression will immediately notify their supervisor or, if unavailable, another on-duty supervisor, and complete a use-of-force report prior to the end of shift (exceptions must be approved by a supervisor). The report should describe the officer's response to an individual's resistance or aggression. This documentation should also include photographs, video, audio, third-party video, and other sources of available information that will contribute to the review of the incident. Electronic media will be stored in the media vault or other designated area; it should not be downloaded or attached to a use-of-force report. Additionally, any other action that results or is alleged to have resulted in harm to another must be documented (including automobile accidents). Reports must be written and submitted to the on-duty supervisor and accepted prior to end of the officer's shift.

- C. **Supervisors Responsibilities:** Supervisors will respond to each incident in which a reportable response to resistance or aggression is used, conduct an investigation, and assist with the completion of the use-of-force report. The supervisor will document the circumstances in an incident report if any of the following occur during a response to resistance or aggression:
1. Visible injury or any complaint of injury. If injuries are visible or there is the mention or complaint of injury, photos must be taken.
 2. Any force above soft- or empty-hand control. This includes ASR, ECD, hard-empty hand controls, and impact tools.
 3. A supervisor's response is not required if pointing firearms or displaying an ECD is the only response.
- D. A use-of-force report is not required when no injury or complaint of injury occurs as a result of:
1. Low Profile Pat Down/High Profile Pat Down/Arm Lock/Standing Search;
 2. Routine Handcuffing;
 3. Felony Prone Handcuffing (Front and Rear);
 4. Felony Prone Search Felony Kneeling;
 5. Firearm held at low ready position.

246.08 REVIEW – RESPONSE TO RESISTANCE OR AGGRESSION

Draft date January 16, 2018

The records unit must forward copies of reports that identify or describe an officer's response to resistance or aggression to the internal affairs unit for analysis. These reports will include all incidents involving any intermediate or higher level of control, including the use of strikes, kicks, takedowns, baton, K9, less-lethal, aerosol subject restraint, electronic control device, firearms, or weapons of opportunity. The internal affairs unit will review the reports to ensure that the actions taken in the incident conform to department policies and procedures. If the review indicates a violation of any department policies, procedures, or training, an investigation will be undertaken by the internal affairs unit with the commander of the unit named as the complainant. This investigation will follow the procedures and policies as if a formal complaint had been received except that the chief of police will receive a copy of the final report of the findings in each such case.

Copies of reports will also be sent to the training unit for a review of training needs.