

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

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**SUBJECT: USE OF FORCE**

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**1.0 PURPOSE:**

The purpose of this General Order is to establish policy and procedures for all Winona police officers regarding the use of deadly and non-deadly force and discharging firearms, as required by Minnesota Statutes, section 626.8452.

**2.0 DEFINITIONS:**

**2.1 Approved Weapon:** Approved weapon means a device or instrument which an officer has received permission from the department to carry and use in the discharge of that officer's duties, and for which the officer has:

**2.1.1** Obtained training in the technical, mechanical and physical aspects of the device.

**2.1.2** Developed a knowledge and understanding of Minnesota State Statutes and Winona Police Department rules, regulations and policies regarding the use of such weapons.

**2.2 Chemical Agents:** Chemical agents means chemical mace, tear gas, Orthochlorobenzalmalonitrile or ortho-chlorobenzylidene-malononitrile (CS), Chloroacetophenone (CN), Oleoresin Capsicum (OS), pepper fog, and pepper mace, or any combination of these agents.

**2.3 Neck Restraint:** There are two (2) categories of neck restraint recognized by this department.

**2.3.1** Respiratory Neck Restraint: This neck restraint applies pressure to the front of the trachea.

**2.3.2** Vascular Neck Restraint: This neck restraint applies pressure to the sides of the neck, specifically the jugular veins.

**2.4 Impact Weapons:** Impact weapons means all objects which are used, or designed to be used, to apply force to a person by striking that person with the weapon.

**2.5 Deadly Force:** As defined in Minnesota Statutes, sec. 609.066, deadly force means force which an officer uses with the purpose of causing, or which the officer

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

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 an 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.

**2.6 Non-Deadly Force:** Non-deadly force shall include all force actually used by an officer which does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.

**2.7 Less lethal munitions:** As defined in Minnesota Statutes, sec 609.066, less lethal munitions means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person.

**2.8 Officer:** Officer means a “peace officer” as defined by Minnesota Statutes, sec 626.84. Thus, an officer is an employee or an elected or appointed official of the City of Winona who is licensed by the Board of Peace Officer Standards and Training, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest.

**2.9 Great Bodily Harm:** Great bodily harm shall mean bodily injury which creates a high probability of death, or which causes a permanent or protracted loss of impairment of the function of any bodily member or organ, or other serious bodily harm.

**2.10 Should:** Should means that an act is recommended, but the officer should use his or her professional judgment in deciding whether to take such course of action.

**3.0 USE OF DEADLY FORCE:**

It shall be the policy of this department to accord officers discretion in the use of deadly force to the extent permitted by Minnesota Statutes, 609.066, Subd. 2. Deadly force by an officer is justified only when necessary as described below:

**3.1** To protect him/her self or another from apparent death or great bodily harm.

**3.2** 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.

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**3.3** 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 his/her apprehension is delayed.

**4.0** USE OF NON-DEADLY FORCE:

It shall be the policy of this department to accord officers discretion in the use of non-deadly force to the extent permitted by Minnesota Statutes, sec. 609.06, which permits peace officers to use reasonable force in the following circumstances:

**4.1** In effecting a lawful arrest.

**4.2** In the execution of legal process.

**4.3** In enforcing an order of the court.

**4.4** In effecting any other duty imposed upon the officer by law.

**5.0** GENERAL RULES GOVERNING USE OF FORCE:

**5.1** Officers should use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others.

**5.2** Protracted hand-to-hand combat may be harmful to the public safety, the safety of the peace officer, and the safety of the person being arrested or captured. Therefore, it shall be deemed reasonable for officers to use that type and degree of non-deadly force necessary to bring a subject quickly under control.

**5.3** Officers shall carry and use only department-approved weapons.

**5.4** Whenever an officer uses force on another person, the officer should immediately, or as soon as reasonably possible, determine if the person is injured and render any first aid and/or request emergency medical aid if deemed necessary by the officer.

**6.0** DISCHARGE OF FIREARMS:

**6.1** Discharge of firearms is prohibited in the following circumstances:

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**6.1.1** As a warning shot.

**6.1.2** At a moving or fleeing vehicle, unless the circumstances come within the provisions of state law, per Minnesota Statutes, sec. 609.066.

**6.1.3** From a moving vehicle, unless the circumstances come with the provisions of state law, per Minnesota Statutes, sec. 609.066.

**6.2** The discharge of firearms is permitted in the following circumstances:

**6.2.1** To kill a dangerous animal or one that humanly requires its removal from further suffering.

**6.2.2** For target practice and firearms qualification, at an approved range.

**6.2.3** Any time use is authorized under state law, as outlined in Section 3.0 of this General Order.

**7.0** USE OF IMPACT WEAPONS:

**7.1** Impact weapons shall be used only where efforts involving the use of less force have failed, or where it reasonably appears that such methods would be ineffective.

**7.2** Officers should attempt to avoid striking bodily areas creating a substantial risk of death or great bodily harm, unless deadly force is authorized in accordance with Minnesota Statutes, sec 609.066, subd. 2. (See section 3.0 of this policy.)

**7.2.1** The target area for impact weapons should be the arms, legs, and center of the body, excluding the area near the heart, but the officer may strike another area of the body that would not create a substantial risk of causing death or great bodily harm.

**7.3** Impact weapons may be used in the following manner:

**7.3.1** To ward off blows or kicks from another person.

**7.3.2** To strike another for the purpose of rendering that person temporarily incapacitated.

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**7.3.3** To restrain persons.

**7.3.4** In appropriate crowd control situations, to direct and control the movement of people, or as a barricade.

**7.4** In all cases of use, the subject must receive proper first aid, and if warranted, be taken to the hospital emergency room for further examination and treatment.

**8.0** USE OF CHEMICAL AGENTS:

**8.1** The use of chemical agents is considered non-deadly force and shall be governed by the procedures governing non-deadly force. (See Section 4.0 of this general order.)

**8.2** Officers may carry department approved chemical agents.

**8.3** In all cases of use, the subject must receive proper first aid care, and if warranted, be taken to the hospital emergency room for further examination and treatment.

**9.0** USE OF NECK RESTRAINTS:

**9.1** Respiratory Neck Restraint: The use of the respiratory neck restraint is considered deadly force by the Winona Police Department. This neck restraint should only be used in situations where the use of deadly force would be justified under Minnesota Statutes, sec. 609.066 subd. 2. (See section 3 of this policy.)

**9.2** Vascular Neck Restraint: The use of the vascular neck restraint is considered to be a hard empty hand control technique by the Winona Police Department.

**9.2.1** Soft Empty Hand Control: are control techniques designed to control lower levels of resistance. These techniques are used when verbal direction or commands have proven ineffective and there has been suspect noncompliance with the lawful orders of police officers.

Examples of soft empty hand control techniques include: touch pressure of pressure joints, joint locks, balanced displacement techniques and distraction techniques.

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**9.2.1** Hard Empty Hand Control: are control techniques that are designed to counteract higher levels of aggression. The same techniques may also be used to control lower levels of aggression when lower levels of control have failed or when it appears that lower-level techniques would prove ineffective or inappropriate.

Examples of hard empty hand control techniques include: empty hand strikes, forearm strikes, knee strikes, kicks, and the shoulder pin restraint

**9.3** In all cases where a subject is rendered unconscious he/she shall be taken to the hospital emergency room for further examination and treatment.

**10.0** ELECTRONIC WEAPON USE

**10.1** Authorization

**10.1.1** Sworn officers in an official capacity may carry an electronic weapon when such weapon has been approved for use by the Chief of Police. Carrying an electronic weapon is optional; however, any officer who elects to carry such a weapon shall only use a department approved holster and may do so only after receiving training on its use.

**10.1.2** The M26 and X26 (referred to as TASER ®) Advanced Taser manufactured by Taser International is hereby authorized for use by Winona Police officers. The TASER ® is a Less Lethal electronic incapacitation device that uses EMD (Electro-Muscular Disruption) to override the central nervous system and take direct control of the skeletal muscles.

**10.1.3** Sworn officers must be trained in the use of an Impact weapon (e.g., night stick) or expandable baton prior to carrying or using the TASER ®.

**10.2** Conditions of Use:

**10.2.1** The TASER ® is deployed as an additional law enforcement tool and is not intended to replace firearms or self-defense techniques. The TASER ® is classified as an intermediate weapon which falls

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

between the use of empty hand control and the use of deadly force, and its use is authorized only when used consistent with department authorized training and provisions of this policy.

**10.2.2 The TASER ® may be used in the following circumstances:**

**10.2.2.1** Only as necessary to overcome physical resistance encountered in the discharge of an official duty where it is believed that the use of a lower level of force method would either allow the individual to escape, or would reasonably expose the officer or others to physical injury.

**10.2.2.2** As a warning device or intimidation tool to gain compliance with a legal verbal command but only in circumstances justifying the authorized use of force, as per Sections 3 and 4 of this policy;

**10.2.2.3** To subdue animals for the purpose of animal control.

**10.2.2.4** During department regulated training.

**10.2.2.5** To control a dangerous or violent subject when deadly force does not appear justified and/or necessary;

**10.2.2.6** Attempts to subdue a subject by conventional tactics have been, or will likely be, ineffective; or

**10.2.2.7** There is a reasonable expectation that it will be unsafe for officers to approach within contact range of the subject.

**10.2.3 The TASER ® may not be used:**

**10.2.3.1** As an interrogative device either through application or threat thereof.

**10.2.3.2** To threaten, harass, coerce, taunt, or abuse anyone.

**10.2.3.3** In areas where there are concentrations of combustible materials.

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**10.2.3.4** In an unlawful manner.

**10.2.3.5** On non-viable contact areas, unless it is necessary to avoid exposing the officer or others to an unreasonable level of risk or harm. An officer's safety and that of other officers and civilians is of primary concern.

**10.2.4** Prior to the use of the TASER ®, if practical, announce your deployment of a "Taser" indicating a use of the TASER ® is imminent.

**10.2.5** If the TASER ® is used to subdue a subject and the probe(s) penetrate the skin, officer(s) shall safely remove the probe(s), if safe to do so, and the probe(s) are not lodged in any of the areas listed in section 10.2.5.1. Once the probe(s) have been safely removed, the puncture site can be treated with a sanitizing element and a band-aid. Officers shall offer further medical care to the subject.

**10. 2.5.1** Do not remove a probe if the shaft is too deeply imbedded, or is in a sensitive area such as the eye, neck, head or groin. In such cases the subject shall be transported to a hospital for medical care and probe removal.

**10.2.5.2** When practical, take photos of where the probe(s) contacted the subject.

**10.2.5.3** The TASER ® cartridge and probe(s) used shall be gathered and entered into evidence. The probe(s) shall be handled in accordance with biohazard materials. The probe(s) shall be inverted and placed into the portals of the spent Taser cartridge. The probe(s) will then be secured in place using tape. When possible, collect several Aphids' and include them with the cartridge in evidence.

**11.0 PEPPERBALL LAUNCHER**

**11.1 AUTHORIZATION:**

**11.1.1** Sworn officers of the Winona Police Department, in an official capacity, may utilize a Pepperball Launcher system. Carrying and utilizing a Pepperball Luancher system is optional; however, any officer who elects to carry or utilize the Pepperball Launcher system may do so only after receiving training on its use.

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**11.1.2** The SA200 Pepperball Launcher is a non-lethal compressed air launched projectile system. The SA10 Pepperball Launcher is a non-lethal system that uses CO2 to launch projectiles.

**11.1.3** Pepperball projectiles are frangible plastic spheres designed to burst on impact. Authorized projectiles are:

**11.1.1.1** Chemical irritant PAVA (Capsaicin II)

**11.1.1.2** Scented inert powder

**11.1.1.3** Inert liquid

**11.1.1.4** Marking

**11.1.1.5** Glass shattering

**11.1.4** Only the SA200 and SA10 Pepperball Launcher system manufactured by Pepperball Technologies Inc. are authorized launchers. Only the above listed projectiles manufactured by Pepperball Technologies Inc. are authorized to be launched from the Pepperball Launchers.

**11.2** CONDITIONS OF USE

**11.2.1** The Pepperball launcher system is an additional law enforcement tool and not intended to replace firearms or other self-defense techniques. The unique ability of the Pepperball Launcher system is the ability to use both kinetic energy and chemical agent (PAVA) in one application or the ability to utilize kinetic energy (impact) and chemical agent (PAVA) individually.

**11.2.2** The Pepperball Launcher system is classified as intermediate weapon control, which falls between the use of hands and the use of deadly force. Its use is authorized only when used consistent with the department-authorized training and provisions of this policy.

**11.2.3** The Pepperball Launcher system may be used in the following circumstances:

**11.2.3.1** To control subjects who pose a threat to themselves, the officer or others.

**11.2.3.2** To control access or egress from a particular area when such force is authorized under the provisions of the use of force.

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

- 11.2.3.3** As a tool to aid in the detention and capture of a subject.
- 11.2.3.4** When attempts to subdue a subject by conventional tactics have been, or will likely be, ineffective. Or if there is reason to believe that it will be unsafe for officers to approach within physical contact range of the subject.
- 11.2.3.5** As a chemical agent (PAVA).
- 11.2.3.6** As kinetic energy impact round.
- 11.2.3.7** A combination of both chemical agent and kinetic impact round.
- 11.2.3.8** To subdue animals for the purpose of animal control.
- 11.2.3.9** During department regulated training.

**11.2.4** The Pepperball Launcher system may not be used in the following circumstances:

- 11.2.4.1** The glass shattering projectiles are not to be used on humans or animals unless the use of deadly force is authorized under section 101-01 of the General Duty Manual and Minnesota State Statute 609.066.
- 11.2.4.2** Operators should avoid targeting eyes, face, throat, or spine area. However, this should not expose the officer or others to unreasonable level of risk or harm merely to avoid these areas. An officer's safety and that of others is of primary concern.

**11.2.5** If the Pepperball Launcher system is used in any form (kinetic energy or chemical projectiles) the officer will inform the on-duty supervisor and report the incident.

**11.2.6** The subject(s) should be evaluated and provided with proper medical care.

**12.0 REPORTING REQUIREMENTS:**

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**12.1** An officer using deadly or non-deadly force shall in all instances notify the on-duty Supervisor and prepare a Use of Force report in addition to all other reports concerning the incident, including the following:

**12.1.1** Supplement Report

**12.1.2** Use of Force Report (WPD)

**12.1.3** Firearms Discharge Report (State)

**12.2** The on-duty Supervisor shall review all incidents involving use of force and approve the officer's Use of Force report form if the officer's actions complied with the provisions of this general order. If an evaluation indicates that the officer did not comply with this general order, the on-duty supervisor shall submit a separate report of his/her findings to the Deputy Chief of Police.

**12.3** The Use of Force report form is for internal department use only and is not to be included with the case file. This form must be submitted directly to the Deputy Chief of Police.

**13.0** USE OF MOTOR VEHICLE IN DEADLY FORCE SITUATIONS: The use of a motor vehicle directly against a person may be considered to be use of deadly force if an officer uses a motor vehicle with the purpose of causing, or which the officer should reasonably know creates a substantial risk of causing death or great bodily harm.

**14.0** APPROVED WEAPONS:

**14.1** Personal Firearm: See General Order 109-09 Section 26.0

**14.2** Impact Weapons:

**14.2.1** Expandable baton.

**14.2.2** Night stick.

**14.2.3** Flashlight.

**14.3** Chemical Agents:

**14.3.1** CS and CN tear gas.

**WINONA POLICE DEPARTMENT**

**NUMBER: 101-01 PAGES: 12**

**EFFECTIVE DATE: March 24, 2006**

---

**SUBJECT: USE OF FORCE**

---

**14.3.2** Pepper mace.

**14.3.3** Any blend or combination of above agents.

**14.4** Department Weapons:

**14.4.1** Includes all firearms, chemical agents, electronic incapacitation devices and impact weapons owned and maintained by the department.

**15.0** TRAINING: All licensed peace officers are required to complete annual training in:

**15.1** Use of firearms.

**15.2** Use of deadly force.

**15.3** Use of non-deadly force.