

## Medina Police Department

Subject: <b>Use of Force</b>		Policy Number: <b>2390</b>	<b>Use of Force 2390</b>
Reference: <b>253B.05, 609.06, 609.065, 609.066, 626.8434, 626.8452, 626.8475, 629.30, 629.32, 629.33</b>			
Personnel: <b>Sworn and Non-Sworn Personnel</b>			
Issue Date: <b>12/15/2020</b>	Revised Date: <b>02/01/2021</b>	Review Date: <b>As Needed</b>	

### **2390.1 – PURPOSE**

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Minn. Stat. § 626.8452).

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Conducted Energy Device policies.

### **2390.1.1 – DEFINITIONS**

Definitions related to this policy include:

**Choke Hold** - For the purposes of this subdivision, "choke hold" means a method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.

**Deadly force** - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

**Feasible** - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Force** - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

**Great bodily harm** - "Great bodily harm" means 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.

**Imminent** - Ready to take place; impending. Note that imminent does not mean immediate or instantaneous.

**Totality of the circumstances** - All facts and circumstances known to the officer at the time, taken as a whole, including the conduct of the officer and the subject leading up to the use of force.

## **2390.2 POLICY**

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Medina Police Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation, and a careful balancing of all interests.

### **2390.2.1 – DUTY TO INTERCEDE AND REPORT**

Any officer present and observing another law enforcement officer or a member using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

Any officer who observes another law enforcement officer or a member use force that is potentially beyond that which is objectively reasonable under the circumstances shall report these observations to a supervisor as soon as feasible (Minn. Stat. § 626.8452; Minn. Stat. § 626.8475).

### **2390.2.2 – ADDITIONAL REQUIREMENTS**

An officer reporting a use of force by another law enforcement officer or member pursuant to this policy shall also make the report in writing to the Chief of Police within 24 hours (Minn. Stat. § 626.8475).

### **2390.2.3 – PERSPECTIVE**

When observing or reporting force used by a law enforcement officer, each officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject.

### **2390.3 – USE OF FORCE**

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

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by this department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

#### **2390.3.1 – USE OF FORCE TO EFFECT AN ARREST**

An officer may use reasonable force (Minn. Stat. § 609.06 and Minn. Stat. § 629.33):

- a) In effecting a lawful arrest.
- b) In the execution of a legal process.
- c) In enforcing an order of the court.
- d) In executing any other duty imposed by law.
- e) In preventing the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime.
- f) In restraining a person with a mental illness or a person with a developmental disability from self-injury or injury to another.
- g) In self-defense or defense of another.

An officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

#### **2390.3.2 – FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE**

When determining whether to apply force and evaluating whether an officer has used reasonable

force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- a) Immediacy and severity of the threat to officers or others.
- b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- d) The effects of suspected drug or alcohol use.
- e) The individual's mental state or capacity.
- f) The individual's ability to understand and comply with officer commands.
- g) Proximity of weapons or dangerous improvised devices.
- h) The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- i) The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- j) Seriousness of the suspected offense or reason for contact with the individual.
- k) Training and experience of the officer.
- l) Potential for injury to officers, suspects, and others.
- m) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- n) The risk and reasonably foreseeable consequences of escape.
- o) The apparent need for immediate control of the individual or a prompt resolution of the situation.
- p) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- q) Prior contacts with the individual or awareness of any propensity for violence.
- r) Any other exigent circumstances.

### **2390.3.3 – PAIN COMPLIANCE TECHNIQUES**

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

- a) The degree to which the application of the technique may be controlled given the level of resistance.
- b) Whether the individual can comply with the direction or orders of the officer.
- c) Whether the individual has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

### **2390.3.4 – CAROTID CHOKE HOLD**

A carotid control hold is a technique designed to control an individual by applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries (Minn. Stat. § 609.06, Subd. 3). The proper application

of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following (Minn. Stat. § 609.06; Minn. Stat. § 609.066).

### **2390.3.5 USE OF FORCE TO SEIZE EVIDENCE**

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Medina Police Department for this specific purpose.

### **2390.3.6 - ALTERNATIVE TACTICS - DE-ESCALATION**

When circumstances reasonably permit, officers should use non-violent strategies and techniques to decrease the intensity of a situation, improve decision-making, improve communication, reduce the need for force, and increase voluntary compliance (e.g., summoning additional resources, formulating a plan, attempting verbal persuasion).

### **2390.3.7 - STATE RESTRICTIONS ON THE USE OF OTHER RESTRAINTS**

Officers may not use any of the following restraints unless the use of deadly force is authorized (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- a) A chokehold. For purposes of this policy, a chokehold only refers to the method of applying sufficient pressure to an individual to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air.
- b) Tying all of an individual's limbs together behind the person's back to render the person immobile.
- c) Securing an individual in any way that results in transporting the person face down in a vehicle.

### **2390.4 - MOVING VEHICLES**

Shots fired at or from a moving vehicle involve additional considerations and risks and are rarely effective.

When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants.

An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others.

Officers should not shoot at any part of a vehicle in an attempt to disable the vehicle.

## **2390.5 - DEADLY FORCE APPLICATIONS**

When reasonable, the officer shall, prior to the use of deadly force, make efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Use of deadly force is justified only 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 (Minn. Stat. § 609.066):

- a) To protect the officer or another from death or great bodily harm.
- b) To effect the arrest or capture, or prevent the escape, of an individual whom the 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 unless immediately apprehended.

In both scenarios, the use of deadly force is only authorized provided that the threat (Minn. Stat. § 609.066):

- a) Can be articulated with specificity by the officer.
- b) Is reasonably likely to occur absent action by the officer.
- c) Must be addressed through the use of deadly force without unreasonable delay.

An officer shall not use deadly force against an individual based on the danger the individual poses to self unless the use of deadly force is justified (Minn. Stat. § 609.066).

## **2390.5.1 - DEADLY FORCE INVESTIGATIONS**

In all incidents in which an officer uses deadly force, the Chief of Police will be notified immediately.

The Hennepin County Criminal Division will investigate all incidents in which an officer uses deadly force. If a Hennepin County Sheriff Deputy is involved, the BCA will be called to investigate the incident.

Immediately following the use of deadly force, it will be the responsibility of the officer or officers involved to notify the Chief of Police. The immediate on-duty supervisor or senior officer shall respond to the scene. The dispatcher will also immediately notify the Hennepin County Criminal Division or BCA.

When an officer is off-duty, he or she will notify the dispatcher, who will notify the Chief of Police.

Incidents involving the shooting of a person will be investigated by the Criminal Division of the Hennepin County Sheriff's Department or BCA. The officer(s) involved in such incident shall not disturb the scene or tamper with or collect evidence, but shall, if possible, secure the scene and remove all persons, including other police officers not attending to an injured person.

All officers who are witnesses to an incident will remain near the scene until the arrival of the investigators so that statements can be obtained.

The officer involved will protect his weapon for examination by the criminal division.

When more than one officer has discharged a firearm in an incident, a ballistics examination of all firearms discharged will be conducted.

All officers involved in the use of deadly force incidents shall be tested for alcohol and/or drugs. This is for the protection of the officers and the public.

### **2390.5.2 - HOMICIDE BY OFFICERS IN PERFORMANCE OF POLICE DUTY**

The officer responsible for the death of a person shall be relieved of duty by the Chief of Police, without loss of pay or benefits, pending the result of the investigation.

The officer shall be available at all times for official interviews and statements regarding the case and shall be subject to recall to duty at any time. The officer shall notify the Chief of Police prior to leaving the City.

The officer shall not discuss the case with anyone except the prosecuting attorney, City attorney, and the Chief of Police, without the approval of the prosecuting attorney or the City attorney. This does not prohibit the officer from discussing the case with the officer's attorney(s) or union representative.

### **2390.6 - DISCHARGE OF FIREARM REPORT**

Each time an officer discharges a firearm, while not in practice, the officer will be required to submit a detailed report of the circumstances. The report will be submitted as soon as possible after the incident. The report will be completed in the following sequence and contain the following information: (Except for training and the dispatching of animals, an incident report is required.)

1. Name and badge number of the officer(s) who discharged the firearm(s).
2. Date and time of occurrence.
3. Location of occurrence.
4. Type, caliber, and serial number of firearm(s) discharged.
5. Type and caliber of ammunition fired.
6. Number of shots fired and direction the shots were fired.
7. Description of object fired at (If person, - name, race, sex, date of birth, etc., if known. If animal, a brief description.)

8. Whether or not the object fired at was moving, standing, or barricaded and direction of travel if in a vehicle.
9. Whether or not the officer or officers were moving in a vehicle, standing, running or barricaded, etc.
10. Results of the shot(s) fired, extent of wounds, other objects struck, etc.
11. Names of supervisors and/or investigators responding to the scene.
12. Other pertinent information concerning the incident written in narrative form. To be included are the reasons for use of firearm, etc.

### **2390.7 - REPORTING THE USE OF FORCE**

Any use of force by a member of this department shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

To collect data for purposes of training, resource allocation, analysis, and related purposes, the department may require the completion of additional report forms, as specified in department policy, procedure, or law.

#### **2390.7.1 NOTIFICATIONS TO SUPERVISORS**

Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances:

- a) The application caused a visible injury.
- b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- c) The individual subjected to the force complained of injury or continuing pain.
- d) The individual indicates intent to pursue litigation.
- e) Any application of the TASER® device or control device.
- f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- g) The individual subjected to the force was rendered unconscious.
- h) An individual was struck or kicked.
- i) An individual alleges unreasonable force was used or that any of the above has occurred.

#### **2390.7.2 - STATE REPORTING REQUIREMENTS**

The Chief of Police shall provide for:

- a) The filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).
- b) The collection and submission of data as required by Minn. Stat. § 626.8457 and consistent with the use of force reporting requirements as determined by POST (Minn. Stat. § 626.8457).



## **2390.8 - MEDICAL CONSIDERATIONS**

Once it is reasonably safe to do so, medical assistance shall be obtained for any person who exhibits signs of physical distress, has sustained visible injury, expresses a complaint of injury or continuing pain or was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Individuals should not be placed on their stomachs for an extended period, as this could impair their ability to breathe.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death. Calls involving these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away.

## **2390.9 - SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to a reported application of force resulting in visible injury, if reasonably available. When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

- a) Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b) Ensure that any injured parties are examined and treated.
- c) When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her Miranda rights, the following shall apply:
  1. The content of the interview should not be summarized or included in any related criminal charges.
  2. The fact that a recorded interview was conducted should be documented in a property or other report.

3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
  1. These photographs should be retained until all potential for civil litigation has expired.
- e) Identify any witnesses not already included in related reports.
- f) Review and approve all related reports.
- g) Determine if there is any indication that the individual may pursue civil litigation.
  1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

In the event that a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the above items as circumstances permit.

### **2390.9.1 - OFFICER RESPONSIBILITY**

The Officer shall review each use of force by any personnel within his/her command to ensure compliance with this policy and to address any training issues.

### **2390.10 - TRAINING**

Officers will receive training on this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).

Subject to available resources, officers should receive periodic training on:

- a) Guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.
- b) De-escalation tactics, including alternatives to force.

### **2390.10.1 - PROHIBITED TRAINING**

Warrior-style training, as defined in Minn. Stat. § 626.8434, whether provided directly by the Department or through a third party, is prohibited (Minn. Stat. § 626.8434).

### **2390.11 - USE OF FORCE ANALYSIS**

At least annually, a Supervisor should prepare an analysis report on use of force incidents. The report should be submitted to the Chief of Police. The report should not contain the names of officers, suspects, or case numbers, and should include:

- a) The identification of any trends in the use of force by members.
- b) Training needs recommendations.
- c) Equipment needs recommendations.
- d) Policy revision recommendations.