



AGENDA
Public Safety Commission
August 10, 2020 6:30 p.m. Meeting
ELECTRONIC MEETING

This meeting will be conducted electronically under the authority of MN State Statutes 13D.021 since an in-person meeting is not possible due to the COVID-19 Pandemic.

To watch the meeting, visit www.newbrightonmn.gov or tune into CTV Channel 8023 (CenturyLink) or Channel 16 (Comcast).

I. Call to Order

II. Roll Call

- | | |
|--|---|
| <input type="checkbox"/> Chair Geoff Hollimon | <input type="checkbox"/> Commissioner Tanya Kessler |
| <input type="checkbox"/> Vice Chair Karen Wagner | <input type="checkbox"/> Commissioner Stephanie Kitzhaber |
| <input type="checkbox"/> Commissioner Robert Boyd | <input type="checkbox"/> Commissioner Ache Wakai |
| <input type="checkbox"/> Commissioner Amina Ghouse | <input type="checkbox"/> Commissioner Jack Winkels |

III. Approval of Agenda

IV. Approval of Minutes

1. July 13th Public Safety Commission
2. June 10th Commissioner Training
3. June 11th Commissioner Training

V. Presentations, Public Hearings, and Business Items

- A. Use of Force** –Director Tony Paetznick

VI. Reports and Updates

- A. Allina Health** – Dave Matteson
B. Public Safety Update – Tony Paetznick, Director of Public Safety
C. City Council Update – Graeme Allen, Councilmember

VII. Adjournment

** A quorum of the City Council may be present.*



MINUTES
Public Safety Commission
July 13, 2020 City Hall
Council Chambers 6:30 p.m.

I. Call to Order

The meeting was called to order at 6:30 p.m. by Chair Hollimon.

II. Roll Call:

Members Present: Commissioners Robert Boyd, Amina Ghouse, Geoff Hollimon, Karen Wagner, and Jack Winkels.

Members Absent: Commissioners Tanya Kessler, Stephanie Kitzhaber, and Ache Wakai.

Also Present: Deputy Director Hamdorf, Council Member Graeme Allen and Dave Matteson (Allina Health).

III. Approval of Agenda

Motion by Wagner, seconded by Boyd to approve the July 13, 2020 agenda as presented. A roll call vote was taken. Motion carried 5-0.

IV. Approval of Minutes

Motion by Boyd, seconded by Wagner to approve the June 8, 2020 minutes as presented. A roll call vote was taken. Motion carried 5-0.

V. Presentations and Public Hearings

A. Police Body Worn Camera Update – Deputy Director Trevor Hamdorf

Deputy Director Hamdorf provided the Council with a presentation on the Police body worn cameras. He explained the Public Safety Department has been using body worn cameras (BWC) for the past 13 months. He reviewed the process that was followed when the department began considering BWC noting the Commission discussed this topic at several meetings and a citizen survey was completed. In addition, a public hearing was held by the City Council to take additional public comment. He explained BWC were keeping in line with the 21st Century Policing Reports and what society was demanding from the department. He commented on the recommendations from the Police-Involved Deadly Force Encounters Working Group and described how BWC were seen as an investigatory tool.

Deputy Director Hamdorf reviewed the perceived benefits of BWC as being strengthening police accountability, preventing confrontational situations, resolving officer-involved incidents and complaints, improving agency transparency, identifying and correcting internal agency problems, strengthening officer performance and improving evidence documentation.

He described how staff reviews videos to ensure officers were maintaining control and to see if videos can be used for training purposes. He reported the department has 30 BWC's deployed to licensed officers and there were 16,579 total videos on the server which took up 9.07 TB of data. He indicated videos drop off after 90 days. He explained 499 video reviews were conducted in the past 12 months.

Deputy Director Hamdorf commented on the BWC audit and reported on the percentage of videos that were properly coded and compliant. He explained any videos that were non-compliant with the policy were typically not coded properly on the back-end or for not putting "BWC" in the report or CAD comments. It was noted the department has had five public data requests and all requests were related to domestic situations. In addition, the department has had a large number of attorney/court data requests. The long term impacts of BWC's was reviewed with the Commission. The training benefits from BWC's was discussed in further detail, along with how the department strives for continuous improvement. He described how important it was for the department to have the public's trust.

Deputy Director Hamdorf reviewed the cost to have BWC's in place and was pleased to report the program came in on budget. He reported future expenditures will be required to purchase new cameras and software, in addition to needing more digital evidence storage.

Discussion included:

- The time officers spend on calls and how neighboring agencies can provide mutual aid to assist New Brighton if officers were tied up.
- How often videos are reviewed when charges are made.
- The disciplinary process that was followed for officers that were not following BWC policies was discussed.
- How minor and formal complaints are addressed by the department.
- The technical performance of the BWC's was discussed.
- The Commission thanked Deputy Director Hamdorf for the detailed presentation on BWC's.

VI. Reports and Updates

A. Allina Health – Dave Matteson

Dave Mattson reviewed the calls for service data for the City of New Brighton with the Commission. He described how June 2020 call volume was pretty static when compared to June 2019. He reported response times for emergent calls were at 7 minutes and 4 seconds in 2020 versus 7 minutes and 33 seconds in 2019. He was pleased with the reduced response time for these calls. He discussed the new shift structure that would begin in October. He commented on how COVID was impacting the region and how testing was on the rise. He explained he has not seen a surge in run volumes. He discussed an unfortunate event that occurred where one of his clinicians was assaulted on a call. He indicated Allina has been providing his employees with an adequate amount of PPE. Further discussion ensued regarding COVID testing.

B. Public Safety Update – Deputy Director Hamdorf

Deputy Director Hamdorf discussed the calls for service in the community and commented on the number that had to do with COVID. He encouraged residents to wash their hands and to remain properly social distanced. He commented on the department's supply cache for

PPE and cleaning supplies. He discussed how the department has been handling fireworks calls and related injuries. He reported the department does not have enough people to chase down all of the fireworks calls.

The Commission encouraged the Public Safety Department to put a notice on the City's website and social media outlets to discourage the use of fireworks.

C. City Council Update – Graeme Allen, Councilmember

Councilmember Allen provided the Commission with an update from the City Council. He thanked Public Safety Staff, Commission members and New Brighton residents that were able to attend the Listening Session that was held on July 7th. He stated this was the first of many listening sessions that will be held between the City and the community.

The Commission requested staff provide the public with a link to the Listening Session. The Commission requested the City Council consider finding a high school student to serve on the Public Safety Commission. The Commission suggested the City consider having an Instagram page in addition to a Facebook page.

VII. Adjournment

Motion by Ghouse, seconded by Winkels to adjourn the meeting at 8:12 p.m. A roll call vote was taken. Motion carried 5-0.

Respectfully submitted,



Trevor Hamdorf
Deputy Director of Public Safety



MINUTES
New Brighton Commissioner Training
Regular Meeting – June 10, 2020
3:00 p.m.

Present: Commissioner Mike Murlowski
Commissioner Pauline Alfors
Commissioner Erin Nichols Matkaiti
Commissioner Pam Axberg
Commissioner Abraham McEathron
Commissioner Geoff Hollimon
Commissioner Robert Boyd
Commissioner Tanya Kessler
Commissioner Ache Wakai
Commissioner Stephanie Kitzhaber
Commissioner Bob Benke
Commissioner Jacqui Sauter
Commissioner Bret Fyneweaver
Commissioner Anthony Pledger

Staff in Attendance: City Clerk Terri Spangrud

Annual Commissioner Training

City Clerk Terri Spangrud welcomed the commissioners to the annual training and thanked them for their willingness to serve the community. She stated on a yearly basis, staff strives to hold training sessions with each of the City's Commissions. She reported she would be discussing the rules and policies in place while also addressing the safeguards in place to ensure integrity in government. It was noted this training is especially important for new commissioners, but also acts as a great refresher for returning members. She provided the commissioners with a presentation on the following topics:

- a) Roles and Responsibilities – Mayor, City Council and City Commissions
- b) Norms of Behavior
- b) Council Expectations and Conflicts of Interest
- c) Gift Law
- d) Data Practices Laws
- e) Open Meeting Law and Meeting Attendance
- f) Use of Public Resources
- g) Communication and Social Media
- h) IT and iPad Use

Discussion included:

- Staff described how new commissioners would be issued an email address and iPad.
- The City's goals and objectives were reviewed with the Commission and it was noted these goals were available on the City's website.
- Staff encouraged the commissioners to contact staff with any comments or questions they may have.
- The commissioners thanked staff for the thorough presentation.

Commissioner Training adjourned at 3:59 pm

Respectfully submitted,

Terri Spangrud



MINUTES
New Brighton Commissioner Training
Regular Meeting – June 11, 2020
6:30 p.m.

Present: Commissioner Amina Ghouse
Commissioner Gary Bank
Commissioner Pam Axberg
Commissioner Max Nundahl
Commissioner Todd Biedenfeld
Commissioner Eric Nelson
Commissioner Tim McQuillan
Commissioner Youssef Enanaa
Commissioner Julia O'Rourke
Commissioner Jack Winkles
Commissioner Karen Wagner

Staff in Attendance: City Clerk Terri Spangrud

Annual Commissioner Training

City Clerk Terri Spangrud welcomed the commissioners to the annual training and thanked them for their willingness to serve the community. She stated on a yearly basis, staff strives to hold training sessions with each of the City's Commissions. She reported she would be discussing the rules and policies in place while also addressing the safeguards in place to ensure integrity in government. It was noted this training is especially important for new commissioners, but also acts as a great refresher for returning members. She provided the commissioners with a presentation on the following topics:

- a) Roles and Responsibilities – Mayor, City Council and City Commissions
- b) Norms of Behavior
- b) Council Expectations and Conflicts of Interest
- c) Gift Law
- d) Data Practices Laws
- e) Open Meeting Law and Meeting Attendance
- f) Use of Public Resources
- g) Communication and Social Media
- h) IT and iPad Use

Discussion included:

- Freedom of speech concerns were addressed.

- City issued email addresses and iPad usage was discussed.
- Staff discussed how social media can be utilized by commissioners.
- The commission asked how to access the Parks Master Plan.
- The commissioners thanked staff for the thorough presentation.

Commissioner Training adjourned at 7:27 pm

Respectfully submitted,

Terri Spangrud

NEW BRIGHTON DEPARTMENT OF PUBLIC SAFETY

Memorandum



To: Public Safety Commissioners
From: Tony Paetznick, Director of Public Safety
Subject: Use of Force Policy Review
Date: August 6, 2020

As part of the agency's commitment to the community in listening to concerns from residents about local law enforcement and leading organizational responses to the issues raised in recent months regarding police reform, the Public Safety Commission has been asked to review the use of force policies of the New Brighton Department of Public Safety. In order to facilitate this dialog for Commissioners and consistent with our department mission to educate New Brighton, please find attached to this cover memo several items of reference to assist with this process for better understanding police officer use of force policies. These include:

- Minnesota State Statutes
- Minnesota Board of Peace of Standards and Training Learning Objectives
- New Brighton Department of Public Safety policies
- League of Minnesota Cities Insurance Trust 2020 Legislative Update

Additional items for consideration can also be found on the City's LISTEN web page dedicated to openness and transparency of policing in New Brighton. Commissioners are encouraged to reference and review <https://www.newbrightonmn.gov/listen> as well in preparation for these discussions.

609.06 AUTHORIZED USE OF FORCE.

Subdivision 1. **When authorized.** Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

- (1) when used by a public officer or one assisting a public officer under the public officer's direction:
 - (a) in effecting a lawful arrest; or
 - (b) in the execution of legal process; or
 - (c) in enforcing an order of the court; or
 - (d) in executing any other duty imposed upon the public officer by law; or
- (2) when used by a person not a public officer in arresting another in the cases and in the manner provided by law and delivering the other to an officer competent to receive the other into custody; or
- (3) when used by any person in resisting or aiding another to resist an offense against the person; or
- (4) when used by any person in lawful possession of real or personal property, or by another assisting the person in lawful possession, in resisting a trespass upon or other unlawful interference with such property; or
- (5) when used by any person to prevent the escape, or to retake following the escape, of a person lawfully held on a charge or conviction of a crime; or
- (6) when used by a parent, guardian, teacher, or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or
- (7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or
- (8) when used by a common carrier in expelling a passenger who refuses to obey a lawful requirement for the conduct of passengers and reasonable care is exercised with regard to the passenger's personal safety; or
- (9) when used to restrain a person with a mental illness or a person with a developmental disability from self-injury or injury to another or when used by one with authority to do so to compel compliance with reasonable requirements for the person's control, conduct, or treatment; or
- (10) when used by a public or private institution providing custody or treatment against one lawfully committed to it to compel compliance with reasonable requirements for the control, conduct, or treatment of the committed person.

Subd. 2. **Deadly force used against peace officers.** Deadly force may not be used against peace officers who have announced their presence and are performing official duties at a location where a person is committing a crime or an act that would be a crime if committed by an adult.

History: 1963 c 753 art 1 s 609.06; 1986 c 444; 1993 c 326 art 1 s 4; 1996 c 408 art 3 s 12; 2002 c 221 s 46; 2013 c 59 art 3 s 16; 2013 c 62 s 28

609.066 AUTHORIZED USE OF DEADLY FORCE BY PEACE OFFICERS.

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

Subd. 2. **Use of deadly force.** Notwithstanding the provisions of section 609.06 or 609.065, the use of deadly force by a peace officer in the line of duty is justified only when necessary:

(1) to protect the peace officer or another from apparent death or great bodily harm;

(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; or

(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 the person's apprehension is delayed.

Subd. 3. **No defense.** This section and sections 609.06, 609.065 and 629.33 may not be used as a defense in a civil action brought by an innocent third party.

History: 1978 c 736 s 2; 1986 c 444; 2001 c 127 s 1

IN-SERVICE USE OF FORCE LEARNING OBJECTIVES FOR PEACE OFFICERS AND PART-TIME PEACE OFFICERS

INTRODUCTION

The following learning objectives have been developed to assist law enforcement agencies in providing use of force continuing education to officers. Pursuant to MN STAT 626.8452 this training must be provided to all peace officers and part-time peace officers annually and each officer is required to receive instruction relative only to weapons and equipment the officer is issued or authorized to use. The term annually has been defined by the POST Board to mean at least once per calendar year.

There are many formats for delivering continuing education. Agencies are encouraged to explore creative and co-operative means of providing this education. Each law enforcement agency must determine minimum competency levels appropriate for agency personnel and nothing in these objectives prohibits an agency from developing additional objectives, or setting higher standards. Agencies are also encouraged to submit suggestions for revisions to these objectives to the POST Board.

A. USE OF FORCE

General learning goal: The officer will explain the criteria that are used to determine when force may be employed, the circumstances that justify the use of deadly force, and the liabilities attached to the use of force.

Performance Objectives:

1. The officer will identify the four instances in which MN STAT 609.06 subd. 1(a)-(d) authorizes a public officer to use reasonable force.
2. The officer will demonstrate familiarity with the agency's policies concerning the use of deadly force.
3. The officer will explain why MN STATS 629.32 and 629.33 are relevant to use of force.
4. The officer will explain the concept of objectively reasonable use of force by peace officers and factors that influence the tool, technique or tactic an officer may choose to use in a situation. The following concepts will be discussed:
 - a) Verbal skills.
 - b) Empty hand techniques.
 - c) Intermediate weapons.
 - d) Deadly Force.
 - e) Totality of the circumstances.

5. The officer will explain how, normally less lethal techniques and weapons may become lethal.
6. The officer will demonstrate knowledge of the circumstances under which a peace officer may use deadly force under MN STAT 609.066.
7. The officer will demonstrate familiarity with the agency's policies concerning the use of force.
8. The officer will explain the civil, criminal, licensing, and employment consequences of unlawful or unreasonable use of force.

B. READINESS ASPECTS OF USE OF FORCE

General learning goal: The officer will explain the importance of mental and physical readiness, and emotional trauma.

Performance Objectives:

1. The officer will explain how extremely stressful situations will affect physical and mental functioning. The explanation must cover the following.
 - a) Breathing and circulation.
 - b) Changes in sensory perception.
 - c) Changes in motor skills.
 - d) Physical trauma
2. The officer will identify the symptoms of emotional trauma that may arise from critical incidents and discuss the need for evaluating and treating their effects, to include:
 - a) Sleep disturbances.
 - b) Emotional distancing.
 - c) Hyper-alertness or exaggerated startle response.
 - d) Memory impairment or trouble concentrating.
 - e) Inability to express feelings.
3. The officer will explain the agency's response to officers involved in deadly force and other critical incidents.
4. The officer will explain the concept of "post-shooting trauma" that people can have varying responses when force, including deadly force, is applied.

C. VERBAL AND NON-VERBAL COMMUNICATION STRATEGIES

General Learning Goal: The officer will explain the importance of and demonstrate proficiency in integrating communication skills where safe and feasible along with tactical de-escalation strategies in volatile situations.

Performance Objectives:

1. The officer will understand the importance of the following areas:
 - a) Active listening and verbalization/command skills
 - b) Use of volume, pitch and pace.
 - c) Contextual or non-verbal communication: body language.
 - d) Lack of compliance considerations: Medical conditions, mental impairment, physical limitations, language barrier, behavior crisis, drugs or alcohol use.
 - e) De-escalation/conflict management strategies: when safe and feasible, barriers, containment, communication, limiting exposure, distance, and other tactics to reduce the need for force.

D. PROFICIENCY WITH UNARMED CONTROL MEASURES

General learning goal: The officer will demonstrate proficiency and explain the importance of unarmed control measures which are authorized by the officer's agency.

Performance Objectives:

1. The officer will demonstrate proficiency in the following areas:
 - a) Handcuffing techniques (and other restraining devices) from positions: prone, standing, kneeling.
 - b) Weapon retention-authorized firearms (in and out of holster) and other agency approved equipment including electronic control weapons.
 - c) Empty hand techniques
 - d) Integration of empty hand techniques and weapons systems to include weapon transitioning and weapon retention.

E. PROFICIENCY WITH INTERMEDIATE FORCE WEAPONS

General learning goal: The officer will discuss and demonstrate proficiency with the various intermediate weapons used by the agency.

Performance Objectives:

1. If the officer is issued or authorized to carry or use chemical aerosols, impact weapons, specialty impact munitions, electronic weapons, or other intermediate weapons, the officer will demonstrate proficiency in the use of these weapons

consistent with agency policy(s).

2. Discuss the impact of low light and adverse weather conditions on the use of intermediate weapons.

F. PRINCIPLES OF FIREARMS USE

General learning goal: During the course of practical firearms training, (sections F and G) the officer will demonstrate knowledge of firearms safety, firearms maintenance, handgun shooting principles and familiarization with authorized firearms. This training will be consistent with agency policies and individual officer assignments.

Performance Objectives:

1. The officer will demonstrate safe handling of all firearms used during training. This will include:
 - a) Safely and correctly loading and unloading the firearms.
 - b) Safely and correctly holstering and drawing the firearms.
 - c) Safely and correctly clearing malfunctions.
 - d) Safely and correctly maintaining authorized firearms.
2. The officer will describe the various methods of handling and storing firearms while off-duty in compliance with MN STAT 609.666. The need for security of firearms kept in the officer's home will also be explained.
3. The officer will identify authorized firearms categories and corresponding ammunition utilized by the agency.
4. The officer will explain situations in which use of the weak hand may be required.
5. The officer will explain the circumstances that justify the use of deadly force by peace officers.

G. HANDGUN RANGE EXERCISES

General learning goal: Any officer who is issued or is authorized to carry a handgun, will effectively and safely utilize the authorized handgun(s) on a qualification course of fire.

Performance Objectives:

1. The officer will demonstrate effective techniques in the following areas:
 - a) Close encounter shooting.

- b) Shooting from cover.
 - c) Reloading Techniques.
 - d) Weapon/reaction hand shooting.
2. The officer will fire a qualification course consisting of no less than 50 rounds. The course of fire may be conducted with duty ammunition, or with lead free, frangible, or non-toxic ammunition that has ballistic performance similar to the issued service ammunition.
 3. During the course of fire, the officer will fire from close, medium and long range. Close range means less than 7 yards; medium range means 7 to 14 yards; and long range means 15 to 25 yards (Suggested use of ammunition allotment: 50% at close range; 40% at medium range and 10% at long range.)
 4. The agency will determine the minimum proficiency to be obtained for successful completion of the exercise.

H. OTHER FIREARMS RANGE EXERCISES

General learning goal: Any officer who is authorized to use other firearms (shotgun, rifle, etc.) will effectively and safely utilize these firearms in a qualification course of fire.

Performance Objectives: Shotgun

1. Given a qualification course of fire, the officer will successfully complete the following:
 - a) The officer will fire the weapon at various distances, using various shooting positions.
 - b) The officer shall consider the projectile spread and background beyond the area of the immediate threat when making the decision to select the shotgun or other authorized firearm.
 - c) During this exercise, the officer may use duty ammunition, or ammunition that has ballistic performance similar to the issued service ammunition. It is recommended that officers' duty ammunition, if not expended during the yearly course of fire, be replaced at least every two years.
 - d) The agency will determine the minimum proficiency to be obtained for successful completion of the exercise.
 - e) The officer will fire a minimum of 10 rounds during this exercise.

Performance Objectives: Rifle

- a) The officer will fire the weapon at various distances, using various shooting positions.
- b) The officer shall consider distance and shot accuracy when selecting the rifle or other authorized firearm.
- c) During this exercise, the officer may use duty ammunition or ammunition that has

ballistic performance similar to the issued duty ammunition. It is recommended that the officer's duty ammunition be replaced every two years.

- d) The agency will determine the minimum proficiency to be obtained for successful completion of the exercise.
- e) The officer will fire a minimum of 20 rounds during this exercise.

I. FIREARM SELECTION

General learning goal: The officer will identify the situations and considerations involved in determining which firearm (handgun or other firearm) is appropriate in various tactical situations.

Performance Objectives:

1. The officer will identify important considerations when deciding which firearm should be used in a tactical situation, to include:
 - a) The physical environment.
 - b) The number of suspect(s).
 - c) The weapons available to suspect(s).
 - d) The presence of bystanders, hostages, or other innocent persons.
 - e) The presence and deployment of assisting officers.
 - f) The officer's level of training with authorized weapons.
 - g) The firearms policy of the agency.
 - h) The potential for ricochet, projectile pattern and projectile penetration.
2. The officer will describe and compare the recognized or effective range of various firearms authorized by the agency.

J. USE OF FIREARMS IN LOW LIGHT AND IN ADVERSE WEATHER

General learning goal: The officer will demonstrate the ability to effectively fire their authorized weapons to include handgun, rifle and shotgun in low light and in adverse weather conditions.

Performance Objectives:

1. The officer will demonstrate the ability to effectively use weapon light systems or other illumination devices in low light conditions.
 - a) Muzzle flash.
 - b) Target identification.
 - c) Target accuracy.
2. The officer will demonstrate the ability to respond to the tactical considerations

associated with adverse weather conditions:

- a) Firearm malfunction.
- b) Firearm control.
- c) Use of gloves.
- d) Reduced mobility in drawing and firing the weapon wearing heavy clothing.
- f) Impact of cold weather in reducing motor function of the extremities.

Use of Force

300.1 PURPOSE AND SCOPE

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.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force 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 the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force. "Less lethal munitions means projectiles which are designed to stun, temporarily incapacitate, or cause temporary discomfort to a person. "Peace officer" has the meaning as given in Minnesota Statute section 626.84 Sub. 1.

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.

300.2 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 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.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer 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. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

Use of Force

300.3 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 the 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.

300.3.1 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.

Use of Force

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

300.3.3 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.

New Brighton Department of Public Safety

Law Enforcement Policy Manual

Use of Force

- (b) Whether the person can comply with the direction or orders of the officer.
- (c) Whether the person 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.

300.3.4 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 New Brighton Department of Public Safety for this specific purpose.

300.4 DEADLY FORCE

Use of deadly force is justified in the following circumstances under MN Statute 609.066:

- (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or great bodily harm.
- (b) An officer may use deadly force 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.
- (c) An officer may use deadly force 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 if the peace officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed.

300.5 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.

300.5.1 NOTIFICATION TO SUPERVISORS

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

Use of Force

- (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 an 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 any of the above has occurred.

300.6 MEDICAL CONSIDERATION

Prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious. Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed.

Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the 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).

Persons 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 if appropriate.

Use of Force

300.7 SUPERVISOR RESPONSIBILITY

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) 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. These photographs should be retained until all potential for civil litigation has expired.
- (d) Identify any witnesses not already included in related reports.
- (e) Review and approve all related reports.
- (f) Determine if there is any indication that the subject 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.
- (g) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance 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.

300.7.1 SHIFT SERGEANT RESPONSIBILITY

The Shift Sergeant 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.

300.8 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).

300.9 USE OF FORCE ANALYSIS

At least annually, the Patrol Deputy Director or designee should prepare an analysis report on use of force incidents. The report should be submitted to the Director of Public Safety. The report should not contain the names of officers, suspects or case numbers, and should include:

New Brighton Department of Public Safety

Law Enforcement Policy Manual

Use of Force

- (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.

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

301.2 POLICY

The New Brighton Department of Public Safety authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy and department training. Restraint devices shall not be used to punish, to display authority or as a show of force.

301.3 USE OF RESTRAINTS

Only members who have successfully completed New Brighton Department of Public Safety-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include, but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

301.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

301.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

Handcuffing and Restraints

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

301.3.3 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer or damage property.

301.3.4 NOTIFICATIONS

Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

301.4 HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

In most situations handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

301.5 SPIT HOODS

Spit hoods/masks/socks are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and that the restrained person can breathe normally. Officers should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid putting individuals wearing spit hoods with other detainees.

Handcuffing and Restraints

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated including hair, head and clothing prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

301.6 AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

301.7 LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest or transportation. Only restraint devices approved by the department shall be used.

In determining whether to use the leg restraint, officers should consider:

- (a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a suspect.
- (b) Whether it is reasonably necessary to protect the suspect from his/her own actions (e.g., hitting his/her head against the interior of the patrol unit, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol unit).

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints the following guidelines should be followed:

- (a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

Handcuffing and Restraints

- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by ambulance/paramedic unit, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

301.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer shall document the details of the detention and the need for handcuffs or other restraints.

If a person is arrested, the use of handcuffs or other restraints shall be documented in the related report.

Officers should document the following information in reports, as appropriate, when restraints other than handcuffs are used on a person:

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

301.9 TRAINING

Subject to available resources, the Deputy Director should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

New Brighton Department of Public Safety

Law Enforcement Policy Manual

Handcuffing and Restraints

Control Devices

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

302.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the New Brighton Department of Public Safety authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Director of Public Safety or the authorized designee.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When feasible, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

302.4 RESPONSIBILITIES

302.4.1 USE OF FORCE INSTRUCTOR'S RESPONSIBILITIES

The Use of Force Instructor shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the Use of Force Instructor or the designated instructor for a particular control device.

302.4.2 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the Use of Force Instructor for disposition.

Control Devices

302.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

When carrying a baton, uniformed personnel assigned to patrol shall carry the baton on their person. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignment or at the direction of their supervisor.

302.6 AEROSOL SUBJECT RESTRAINT (ASR) GUIDELINES

As with other control devices, ASR and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and ASR should not be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

302.6.1 ASR SPRAY

Uniformed personnel assigned to patrol shall carry ASR on their person. Plainclothes and non-field personnel may carry ASR as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

302.6.2

302.6.3 TREATMENT FOR EXPOSURE TO ASR/CHEMICAL AGENTS

Persons who have been sprayed with or otherwise affected by the use of ASR/chemical agents should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

302.7 POST-APPLICATION NOTICE

When ever an ASR/chemical agent has been introduced into a residence, building interior, vehicle or other enclosed area, officers should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

Control Devices

302.8 LESS LETHAL IMPACT MUNITIONS (LLIMs) GUIDELINES

This department is committed to reducing the potential for violent confrontations. LLIMs, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.

302.8.1 DEPLOYMENT AND USE

Only department-approved LLIMs shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

LLIMs are also a viable option for dealing with vicious animals.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

Officers should advise dispatch via the radio when LLIMs is discharged and request that a supervisor immediately respond to the scene.

302.8.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance, shot placement and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

Control Devices

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

Medical personnel should be summoned for suspects shot with a LLIMs round and be seen at a hospital prior to booking even if the suspect is refusing medical attention.

All deployed LLIMs projectiles and casing should be placed into evidence if the projectile is able to be located.

Photos should be taken of the impact site whether or not the impact site has a visible injury and placed into the case file.

302.8.3 SAFETY PROCEDURES

The launcher is specifically designated for use with LLIMs projectiles and will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect the launcher and LLIMs projectiles at the beginning of each shift to ensure that the launcher is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the launcher will be unloaded and properly and securely stored in the vehicle. When deploying the launcher, the officer shall visually inspect the LLIMs projectiles to ensure that they are in proper working condition.

302.9 TRAINING FOR CONTROL DEVICES

The Deputy Director shall ensure that all personnel who are authorized to carry a control device have been properly trained to carry the specific control device and are retrained as necessary. Officers will receive training on the use of issued control devices and this policy, including the learning objectives as provided by POST, at least annually (Minn. Stat. § 626.8452, Subd. 3).

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

New Brighton Department of Public Safety

Law Enforcement Policy Manual

Control Devices

- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

302.10 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Conducted Energy Device

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the TASER® device.

303.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

303.3 ISSUANCE AND CARRYING TASER DEVICES

Only members who have successfully completed department-approved training may be issued and carry the TASER device.

TASER devices are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the TASER device and cartridges that have been issued by the Department.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (c) Officers should not hold both a firearm and the TASER device at the same time.

303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the TASER

Conducted Energy Device

device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the TASER device in the related report.

303.6 DOCUMENTATION

Officers shall document all TASER device discharges on individuals in the related report. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

303.6.1 REPORTS

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems

303.7 MEDICAL TREATMENT

Consistent with training and absent extenuating circumstances, only appropriate trained personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by TASER device probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER device probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Conducted Energy Device

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

303.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the TASER device may be used. A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by the deploying officer and saved with the related case file. Photographs of probe sites should be taken and witnesses interviewed.

303.9 TRAINING

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by the department-approved TASER device instructor prior to again carrying or using the device.

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

A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Deputy Director. All training and proficiency for TASER devices will be documented in the officer's training file.

Command staff, supervisors and investigators should receive TASER device training as appropriate for the investigations they conduct and review.

Officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Deputy Director is responsible for ensuring that all members who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Deputy Director should ensure that all training includes:

New Brighton Department of Public Safety

Law Enforcement Policy Manual

Conducted Energy Device

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

Subject: 2020 Legislative Update

Principal Issues: Eyewitness identification procedures; search warrants for electronic communications information and location data; drone use by law enforcement; stalking and harassment by mail, underage tobacco laws; extension of expiration dates for driver licenses and state ID cards; use of force and deadly force; duty to intervene; and peace officer training.

Date Issued: July 25, 2020

Prepared By: League of Minnesota Cities Insurance Trust

In other years, PATROL has released full one-hour courses on August 1 detailing the latest legislative developments. But this year, there was not much to cover by the time the session ended—COVID both dominated and disrupted the legislative process. One week after the regular session ended, however, George Floyd was killed while in police custody in Minneapolis. On July 21, 2020, the Minnesota Legislature passed a series of measures aimed at police reform and accountability, and these will impact police practices and training going forward.

Many of the changes from the regular and second special session have effective dates of August 1, and one critical change is effective July 24, leaving no time to develop and release a course before the measures become law. As a result, this bulletin is being provided to acquaint you with relevant developments, and we will be working in the months ahead on additional training in response to the new measures. Four immediate, critical changes relating to the use of force are included below and highlighted.

Different officers will have different levels of interest in these legislative developments. We have

tried to find the sweet spot between providing you with enough and too much information. If you would like to know more about any of the measures being discussed, the footnotes will refer you to the appropriate statute or session law.

CRIMINAL PROCEDURE

Eyewitness identification:

Model policy required: A new statute, section 626.8433, directs the POST Board to develop and issue a model policy on eyewitness identification procedures, and requires that agencies adopt and implement an identical or substantially similar policy by February 1, 2021.¹

Details of the policy: The model policy must provide for the “blind” or “blinded” administration of photo lineups, which reduce the possibility of unintentional suggestion.² In a blind lineup, the officer administering it does not know the suspect’s identity. If this is not practical, the officer administering the lineup must use a blinded procedure, which means that the officer cannot see which photo the witness is examining at any given moment.³ In addition, the eyewitness must be informed before the lineup that the perpetrator may or may not be included in the lineup; others included in the photo array must be similar in appearance to the eyewitness’s description of the suspect; and immediately after an identification is made, the witness should provide a statement in their own words that describes their degree of confidence in the identification.⁴

Search warrants for electronic communication information:

Accessing electronic communications: Minnesota Statutes section 626A.28 establishes procedures for government entities to obtain information from

[department-announces-department-wide-procedures-eyewitness-identification.](#)

³ Minn. Stat. § 626.8433, subd. 1(1) (2020).

⁴ *Id.* § 626.8433, subd. 1(2)-(4).

¹ 2020 Minn. Laws Ch. 90, sec. 1.

² See, e.g., U.S. Dep’t of Justice, Office of Pub. Affairs, *Justice Department Announces Department-Wide Procedures for Eyewitness Identification*, (Jan. 6, 2017), <https://www.justice.gov/opa/pr/justice->

providers of electronic communication services. Former law provided that investigators could use a subpoena or court order to access communications that had been in electronic storage systems for more than 180 days.⁵ This authority has been repealed.⁶ Under a new statute, covered next, accessing the content of electronic communications will require a search warrant or exception to the warrant requirement.

Obtaining location data: The Legislature enacted a new statute, section 626.085, that requires a search warrant to obtain “the contents of electronic communications and precise or approximate location of the sender or recipients at any point during the communications.”⁷ A search warrant is not necessary if the agency has valid consent from one with the authority to give it, or if there are exigent circumstances involving a danger to someone’s life or physical safety.⁸

The new section also establishes measures to protect ongoing investigations. It requires courts to seal warrants for the lesser period of 90 days or until the “objective of the warrant has been accomplished,” and provides for the filing of the warrant with 10 days after expiration.⁹ Within 90 days after the warrant is unsealed, the agency that accessed information under it must give the subject specific information about the warrant and indicate whether or not electronic communications information was collected.¹⁰

Tracking warrants: Section 626A.42 provides that government entities may not obtain the location information of an electronic device without a tracking warrant issued on probable cause, unless proceeding with consent or in an emergency situation involving a risk of death or serious physical harm.¹¹ New legislation for 2020 further extends the warrant requirement to location information about “unique identifier[s].”¹² A “unique identifier” is defined as “any numeric string that is associated with a single entity or account within a given electronic communication application or service.”¹³

Drones:

Use by law enforcement: A new addition to the books, section 626.19, governs law enforcement’s use of unmanned aerial vehicles (UAVs or drones) and the data that is collected with them.¹⁴ The details of the statute will be of particular relevance to agencies that operate drone programs or are considering one.

Warrant requirement and exceptions: The new law prohibits law enforcement use of UAVs without a search warrant, except in nine situations. These are:

1. During or in the aftermath of an emergency involving the risk of death or bodily harm;
2. Over a public event where there is a heightened safety risk to participants or bystanders;
3. To counter the risk of a terrorist attack by a specific individual or organization, based on credible intelligence;
4. In and after disasters, to prevent the loss of life, or to facilitate operational planning, rescue, or recovery operations;
5. To conduct a threat assessment prior to a specific event;
6. To collect information from a public area based on reasonable suspicion of criminal activity;
7. To collect information for crash reconstructions after serious or deadly collisions on public roads;
8. Over a public area for purposes of officer training or public relations; and
9. On written request of a government entity for a purpose unrelated to law enforcement, that identifies the basis for the request and proposed timeframe of

⁵ *Id.* § 626A.28, subd. 2.

⁶ 2020 Minn. Laws Ch. 88, sec. 18.

⁷ 2020 Minn. Laws Ch. 82, sec. 4; Minn. Stat. § 626.085, subds. 1 and 2(a).

⁸ *Id.* § 626.086, subd. 2(b).

⁹ *Id.* § 626.086, subd. 4(b)(1), (2).

¹⁰ *Id.* § 626.086, subds 3, 4.

¹¹ *Id.* § 626A.42, subd. 2.

¹² 2020 Minn. Laws Ch. 82, secs. 14, 15; Minn. Stat. 626A.42, subd2. 1(i), 2.

¹³ Minn. Stat. § 626A.42, subd. 1(i).

¹⁴ 2020 Minn. Laws Ch. 82, sec. 5.

use.¹⁵ This exception might apply, for instance, if the road or street department, or parks department, needed an aerial view of something for their work.

Additional requirements: In addition: drone use must comply with FAA guidelines; drones may not employ facial recognition or biometric matching technologies unless authorized by a warrant; they may not be equipped with weapons; and cannot be used to collect information on protests or demonstrations without a warrant unless one of the above-listed exceptions applies.¹⁶ Each deployment must be documented, connected to an agency case number, and the documentation must identify the exception relied upon for use unless a warrant has been issued.¹⁷

Data practices: The new section classifies and regulates the use, retention, and dissemination of data collected by UAVs, and provides that unlawfully collected UAV data may not be used as evidence in court or administrative proceedings.¹⁸

Public comment and policies: Agencies must provide an opportunity for public comment before purchasing or using a UAV.¹⁹ In addition, agencies must have a written policy in place before using a UAV, and must also provide an opportunity for public comment on the policy.²⁰

CRIMINAL AND DRIVING LAWS

Amendments to harassment laws:

First Amendment legal challenge: Minnesota Statutes section 609.749 (2018) prohibited stalking, which was defined to include repeatedly mailing or delivering letters, messages, and packages, including by electronic means. Section 609.795 (2018) prohibited harassment, and likewise proscribed repeatedly mailing or sending messages, including electronically. A juvenile defendant sent a barrage of cruel and demeaning tweets about a fellow student and was convicted under these provisions. In *Matter of Welfare of A.J.B.*, the

student challenged these laws, arguing that they were unconstitutionally overbroad because they also outlawed speech and expressive activities protected by the First Amendment.²¹

In June 2019, the Minnesota Supreme Court struck down the stalking-by-mail law as overbroad, and narrowed the reach of the harassment-by-mail prohibition.²² The Legislature responded by amending three different provisions of the criminal code, specifying both the intent required and harms that must be shown to establish a violation. These changes are effective August 1.

Stalking by mail: Stalking is a gross misdemeanor under section 609.749. Under the new intent and harm standards,²³ a person is guilty of stalking by mail if he or she:

- Repeatedly mails, delivers, or causes the delivery by any means, including electronically,
- Of letters, messages, or packages,
- With intent to kill, injure, harass, or intimidate another person,
- And this conduct:
 - Places the victim in fear of substantial bodily harm; or
 - Places the victim in reasonable fear that their family or household members will be subject to substantial bodily harm; or
 - Causes or would reasonably be expected to cause the victim substantial emotional distress.²⁴

The statute defines “substantial emotional distress” as mental suffering of sufficient intensity to cause one to seek psychotherapy, lose their appetite or ability to sleep, result in a mental health diagnosis, have suicidal thoughts, or suffer from distractibility.²⁵

¹⁵ Minn. Stat. § 626.19, subs. 2, 3.

¹⁶ *Id.* § 626.19, subd. 4.

¹⁷ *Id.* § 626.19, subd. 5.

¹⁸ *Id.* § 626.19, subs. 6, 7.

¹⁹ *Id.* § 626.19, subd. 9.

²⁰ *Id.* § 626.19, subd. 10.

²¹ 929 N.W.2d 840, 846 (Minn. 2019).

²² *Id.* at 856.

²³ 2020 Minn. Laws Ch. 96, sec. 2; Minn. Stat. § 609.749, subd. 2(b).

²⁴ Minn. Stat. § 609.749, subd. 2(b)(1)(3).

²⁵ *Id.* § 609.749, subd. 2(a)(4).

Harassment by mail: The Legislature made similar modifications to the provisions of section 609.795 that prohibit harassment by mail.²⁶ A person is guilty of misdemeanor harassment-by-mail if he or she:

- With intent to harass or intimidate another,
- Repeatedly mails, delivers, or causes the delivery by any means, including electronically,
- Of letters, telegrams, or packages, and
- The actor's conduct produces any of the same kinds of harm as are listed under section 609.749.²⁷

Obscene or harassing phone calls: Section 609.79 outlaws the making of obscene or harassing phone calls. Although this statute was not at issue in the *A.J.B.* case, the Legislature made similar changes to the intent and harm elements.²⁸ An actor is guilty of a misdemeanor if he or she:

- With intent to harass or intimidate another person,
- Repeatedly makes telephone calls, or causes the other's phone to ring, or causes the other to receive electronic notifications,
- And the actor's conduct produces any of the same kinds of harm as are listed under section 609.749.²⁹

State tobacco age raised to 21:

Change in federal law: On December 20, 2019, federal legislation went into effect that raised the minimum age of sale for tobacco products from 18 to 21.³⁰ Minnesota has amended its state laws to follow suit, including modifications to the underage tobacco provisions found in the criminal code.³¹

²⁶ 2020 Minn. Laws Ch. 6, sec. 5.

²⁷ Minn. Stat. § 609.795, subd. 1(3).

²⁸ 2020 Minn. Laws Ch. 96, sec. 4.

²⁹ Minn. Stat. § 609.79, subd. 1(1)(ii), (iii).

³⁰ U.S. Food & Drug Admin, *Newly Signed Legislation Raises Federal Minimum Age of Sale of Tobacco Products to 21* (Jan. 15, 2020), <https://www.fda.gov/tobacco-products/ctp-newsroom/newly-signed-legislation-raises-federal-minimum-age-sale-tobacco-products-21>.

Furnishing tobacco and tobacco products: Section 609.685 regulates the sale and furnishing of tobacco to underage persons. It prohibits the provision of not only tobacco, but also products containing tobacco and devices used to ingest tobacco or turn it into vapor or aerosol, such as vape pens, e-cigarettes, and the like.³² New amendments raise the age of lawful purchase to 21.³³ Interestingly, going forward, the law only imposes a penalty in cases where the seller or furnisher is at least 21 years of age.³⁴ A first offense for unlawfully selling or furnishing has been reduced from a misdemeanor to a petty misdemeanor, and subsequent offenses committed within a five-year period are reduced from gross misdemeanors to misdemeanors.³⁵

Using false ID to obtain tobacco products: An underage person who uses false identification to purchase or attempt to purchase tobacco or related products is no longer guilty of a criminal offense, but is subject only to an "alternative civil penalty."³⁶ The statute instructs law enforcement and court system representatives to identify appropriate civil penalties, which could include participating in tobacco-free programs and community service.³⁷ Local ordinances may provide for more stringent regulation.³⁸

Tobacco delivery products: Section 609.6855 regulates the furnishing of tobacco *delivery* products, which are those that contain natural or synthetic nicotine or lobelia (another type of plant) that is intended for human consumption. This statute targets tobacco products that are not inhaled, such as nicotine-containing lollipops and

³¹ See generally 2020 Minn. Laws Ch. 88.

³² Minn. Stat. § 609.685, subd. 1(a)-(c).

³³ *Id.* § 609.685, subd. 1a(a).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* § 609.685, subd. 2.

³⁷ *Id.* § 609.685, subd. 2a.

³⁸ *Id.* § 609.685, subd. 4.

lip balms.³⁹ Other changes to this statute essentially mirror those made to section 609.685.⁴⁰

A person under 21 does not violate the prohibitions against using false ID when attempting to purchase tobacco or related products, or tobacco delivery products, “under the direct supervision of a responsible adult for training, education, research or enforcement purposes.”⁴¹

Expiration of driver’s licenses, ID cards, and disability parking permits:

The Legislature has extended the expiration date for valid state ID cards and drivers’ licenses, including but not limited to instructional permits and provisional licenses, until the last day of the second month after the current COVID peacetime emergency is terminated.⁴² This extension also applies to noncommercial licenses from another state or jurisdiction held by persons who have relocated to Minnesota,⁴³ and to the expiration of disability parking permits and certificates.⁴⁴

USE OF FORCE

Force investigations: A new statute, section 299C.80, establishes an independent force investigations unit within the Bureau of Criminal Apprehension to conduct officer-involved death investigations.⁴⁵

Authorized use of force: Section 609.06 is amended, effective July 24, to restrict the use of certain methods of restraint.⁴⁶ Restricted methods are the use of choke holds, securing a person’s limbs together behind the back (i.e., “hog-tying”), and securing people such that they are transported face-down in a vehicle.⁴⁷ “Choke hold” is defined as the application of pressure to a person—not just to a person’s neck—to make it impossible or more

difficult to breathe.⁴⁸ Carotid neck restraint is explicitly included within the definition of “choke hold.”⁴⁹ These methods may only be used when an officer is authorized to use deadly force under section 609.066 to protect the officer or another from death or great bodily harm.⁵⁰

Deadly force: Section 609.066, the deadly force statute, is amended effective March 1, 2021.⁵¹ PATROL intends to provide in-depth training regarding these new standards prior to the effective date. In short:

- The Legislature added a preamble of declarations (subdivision 1a) to section 609.066, stating that the authority to use deadly force must be “exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life”; that it intends for officers to use deadly force “only when necessary in defense of human life or to prevent great bodily harm”; that officers should exercise special care when dealing with individuals known to have disabilities that could affect their ability to understand and comply with commands; and that the evaluation of officer actions must be made from the perspective of a reasonable officer on the scene, rather than on hindsight.⁵²
- Officers may use deadly force when necessary to protect themselves or another from death or great bodily harm, but the threat is to be evaluated based on the following three criteria (“threat criteria”): the threat must be one that the officer can articulate with specificity; it must be reasonably likely to materialize unless the officer acts; and the threat is one that “must

³⁹ See Minn. Stat. § 609.6855, subd. 1(a) (specifying that the statute does not cover products within the scope of section 609.685); see also Michael Freiberg, *Options for State and Local Governments to Regulate Non-Cigarette Tobacco Products*, 21 *Annals Health L.* 407, 434 (2012) (describing section 609.6855 as covering such products as nicotine balms and nicotine lollipops).

⁴⁰ 2020 Minn. Laws Ch. 88, sec. 12.

⁴¹ Minn. Stat. §§ 609.685, subd. 15(b), 609.6855, subd. 2.

⁴² 2020 Minn. Laws Ch. 71, Art. 2, sec. 15, subds. 1, 2.

⁴³ *Id.* Ch. 71, Art. 2, sec. 15, subd. 3.

⁴⁴ *Id.* Ch. 71, Art. 2, sec. 15, subd. 4.

⁴⁵ 2020 Minn. Laws 2nd Special Session, Ch. 1, sec. 5.

⁴⁶ *Id.* Ch. 1, secs. 7-8.

⁴⁷ Minn. Stat. § 609.06, subd. 3(a)(1)-(3).

⁴⁸ *Id.* § 609.06, subd. 3(b).

⁴⁹ *Id.*

⁵⁰ *Id.* § 609.06, subd. 3(a).

⁵¹ 2020 Minn. Laws 2nd Special Session, Ch. 1, secs. 9, 10.

⁵² Minn. Stat. § 609.066, subd. 1a.

be addressed through the use of deadly force without unreasonable delay.”⁵³

- Officers may use deadly to effect the arrest or capture, or prevent the escape of a person, when the officer has reasonable grounds to believe the person has committed a felony *and* reasonably believes that the person will cause death or great bodily harm—based on the same three threat criteria—unless immediately apprehended.⁵⁴
- Officers are prohibited from using deadly force to stop a threat that a person poses only to himself or herself.⁵⁵

Duty to intercede and report: Effective August 1, 2020, officers must, without regard to rank or tenure, intercede when another officer uses unauthorized deadly force or other force that is objectively unreasonable under the circumstances.⁵⁶

This duty exists when an officer is present, makes an observation that triggers an obligation to intervene, and the officer has the physical or verbal ability to do so.⁵⁷ The reach of the statute is not limited to situations where an officer from the same agency is observed to be using excessive force.

In addition, an officer who observes another officer or employee using unauthorized force must submit a written report to the observing officer’s CLEO within 24 hours.⁵⁸ A failure to intervene or report makes an officer subject to discipline by the POST Board.⁵⁹

PEACE OFFICER TRAINING

“Warrior-style” training: A new statute, section 626.8434, defines warrior-style training as that which dehumanizes people or encourages aggressive police conduct that devalues human life or constitutional rights.⁶⁰ Effective August 1, 2020, the POST Board may not award continuing

education credits or reimbursement for this kind of training, and agencies may not provide it to their officers either directly or through third parties.⁶¹

Mental health crisis response training: Section 626.8469 is amended to specify the topics that must be addressed in mental health crisis response training, and to establish minimum training hours for crisis intervention and safe interactions with persons having autism.⁶² Going forward, six of the mandatory 16 hours of training each licensing cycle must be in the area of crisis intervention and mental illness crisis training, and four hours must be devoted to coursework to help “ensure safer interactions between peace officers and persons with autism.”⁶³ The POST Board must develop learning objectives for training relating to autism, and the four-hour requirement will begin to apply to three-year licensing cycles that begin after June 30, 2021.⁶⁴

MISCELLANEOUS

Mental health designations on licenses: Section 171.05 is amended to allow persons to have a graphic or written identifier placed on their drivers’ licenses or state ID cards indicating that the subject has a mental health condition.⁶⁵ DPS is prohibited from including any specific medical information on the license or identification card.⁶⁶

Other: The Legislature amended and created new sections pertaining to peer counseling data, public safety peer counseling, and critical incident stress management. If interested in these topics, relevant provisions include sections 13.43, subd. 9 (peer counseling data) and 9a (critical incident stress management data), 181.731 (public safety peer counseling), and 181.9732 (critical incident stress management).

⁵³ *Id.* § 609.066, subd. 2(a)(1)(i)-(iii).

⁵⁴ *Id.* § 609.066, subd. 2(a)(2).

⁵⁵ *Id.* § 609.066, subd. 2(b).

⁵⁶ 2020 Minn. Laws 2nd Special Session, Ch. 1, sec. 23; Minn. Stat. § 626.8475.

⁵⁷ Minn. Stat. § 626.8475(a).

⁵⁸ *Id.* § 626.8475(b).

⁵⁹ *Id.* § 626.8475(c).

⁶⁰ 2020 Minn. Laws 2nd Special Session, Ch. 1, sec. 14.

⁶¹ Minn. Stat. § 626.8434, subsd. 2, 3.

⁶² 2020 Minn. Laws 2nd Special Session, Ch. 1, sec. 21.

⁶³ Minn. Stat. § 626.8469, subd. 1.

⁶⁴ 2020 Minn. Laws 2nd Special Session, Ch. 1, sec. 21; Minn. Stat. § 626.8474.

⁶⁵ 2020 Minn. Laws Ch. 100, sec. 15; Minn. Stat. § 171.07, subd. 6b.

⁶⁶ *Id.*

2020 Use of Force - By Month

	<u>#</u>	<u>YTD</u>
January	11	11
February	2	13
March	7	20
April	3	23
May	6	29
June	6	35
July		
August		
September		
October		
November		
December		

Use of Force Statistics

June

<u>Year</u>	<u># for Month</u>	<u>Year-to-Date</u>
2020	6	35
2019	7	37
2018	2	21
2017	4	28
2016	2	20

Incident Type Report (Summary)

Incident Type	Total Incidents	Total Incidents % of Incidents	Total Property Loss	Total Content Loss	Total Loss
Incident Type Category: 1 - Fire					
111 - Building fire	1	3.4%	1,000	1,000	2,000
113 - Cooking fire, confined to container	1	3.4%			
138 - Off-road vehicle or heavy equipment fire	1	3.4%	1,000		1,000
150 - Outside rubbish fire, other	1	3.4%	2,000	2,000	4,000
Total: 4	Total: 13.8%		Total: 4,000	Total: 3,000	Total: 7,000
Incident Type Category: 3 - Rescue & Emergency Medical Service Incident					
352 - Extrication of victim(s) from vehicle	1	3.4%			
363 - Swift water rescue	1	3.4%			
Total: 2	Total: 6.9%		Total: 0	Total: 0	Total: 0
Incident Type Category: 4 - Hazardous Condition (No Fire)					
412 - Gas leak (natural gas or LPG)	2	6.9%			
444 - Power line down	2	6.9%			
463 - Vehicle accident, general cleanup	1	3.4%			
Total: 5	Total: 17.2%		Total: 0	Total: 0	Total: 0
Incident Type Category: 5 - Service Call					
550 - Public service assistance, other	2	6.9%			
551 - Assist police or other governmental agency	1	3.4%			
Total: 3	Total: 10.3%		Total: 0	Total: 0	Total: 0
Incident Type Category: 6 - Good Intent Call					
611 - Dispatched and cancelled en route	1	3.4%			
621 - Wrong location	1	3.4%			
Total: 2	Total: 6.9%		Total: 0	Total: 0	Total: 0
Incident Type Category: 7 - False Alarm & False Call					
711 - Municipal alarm system, malicious false alarm	1	3.4%			
715 - Local alarm system, malicious false alarm	1	3.4%			
735 - Alarm system sounded due to malfunction	1	3.4%			
740 - Unintentional transmission of alarm, other	1	3.4%			
741 - Sprinkler activation, no fire - unintentional	1	3.4%			
745 - Alarm system activation, no fire - unintentional	8	27.6%			
Total: 13	Total: 44.8%		Total: 0	Total: 0	Total: 0
Total: 29	Total: 100.0%		Total: 4,000	Total: 3,000	Total: 7,000

Report Filters

Basic Incident Date Time: is between '06/01/2020' and '06/30/2020'

Agency Name: is equal to 'NEW BRIGHTON'

Report Criteria

Incident Type (Fd1.21): Is Not Blank

CRIMINAL ACTIVITY
PART I OFFENSES
(Actual and Attempts)

MONTH OF: June 2020	Cases This Month	This Month Clearances	Cases Year-to-Date	Cases Last Year-to-Date
Homicide	0	0	0	0
Rape	0	0	1	3
Robbery	1	0	4	4
Agg. Assault	2	1	8	10
Burglary	6	0	27	19
Theft (includes shoplifting and bike)	28	2	171	146
Auto Theft	3	0	22	13
Arson	0	0	0	2
TOTALS	40	3	233	197

TRAFFIC ACTIVITY

	This Month	Year-to-Date	Last Year-to-Date
Motor Vehicle Crashes:	18	122	207
Property Damage	16	115	186
Personal Injury	2	7	21
Fatal	0	0	0
DWI	9	49	69
Parking Violations	6	99	228
Hazardous Moving Violations	32	139	205
Non-Hazardous Moving Violations	20	211	308
Traffic Stops – No Citation	63	566	1,094

MISCELLANEOUS POLICE ACTIVITY

	This Month	This Month Last Year	Year-to-Date	Last Year-to-Date
CFS by Complaint Number	903	919	4,612	4,817
CFS by Officers' Response	1,554	1,515	7,869	8,460
Adult Arrests (not including traffic)	36	30	172	169
Juvenile Arrests (not including traffic)	0	0	6	3
Warrant Arrests	0	9	21	35
Non-Traffic Citations	13	17	76	82

2020 Use of Force - By Month

	<u>#</u>	<u>YTD</u>
January	11	11
February	2	13
March	7	20
April	3	23
May	6	29
June	6	35
July		
August		
September		
October		
November		
December		

Use of Force Statistics

June

<u>Year</u>	<u># for Month</u>	<u>Year-to-Date</u>
2020	6	35
2019	7	37
2018	2	21
2017	4	28
2016	2	20

Incident Type Report (Summary)

Incident Type	Total Incidents	Total Incidents % of Incidents	Total Property Loss	Total Content Loss	Total Loss
Incident Type Category: 1 - Fire					
111 - Building fire	1	3.4%	1,000	1,000	2,000
113 - Cooking fire, confined to container	1	3.4%			
138 - Off-road vehicle or heavy equipment fire	1	3.4%	1,000		1,000
150 - Outside rubbish fire, other	1	3.4%	2,000	2,000	4,000
Total: 4	Total: 13.8%		Total: 4,000	Total: 3,000	Total: 7,000
Incident Type Category: 3 - Rescue & Emergency Medical Service Incident					
352 - Extrication of victim(s) from vehicle	1	3.4%			
363 - Swift water rescue	1	3.4%			
Total: 2	Total: 6.9%		Total: 0	Total: 0	Total: 0
Incident Type Category: 4 - Hazardous Condition (No Fire)					
412 - Gas leak (natural gas or LPG)	2	6.9%			
444 - Power line down	2	6.9%			
463 - Vehicle accident, general cleanup	1	3.4%			
Total: 5	Total: 17.2%		Total: 0	Total: 0	Total: 0
Incident Type Category: 5 - Service Call					
550 - Public service assistance, other	2	6.9%			
551 - Assist police or other governmental agency	1	3.4%			
Total: 3	Total: 10.3%		Total: 0	Total: 0	Total: 0
Incident Type Category: 6 - Good Intent Call					
611 - Dispatched and cancelled en route	1	3.4%			
621 - Wrong location	1	3.4%			
Total: 2	Total: 6.9%		Total: 0	Total: 0	Total: 0
Incident Type Category: 7 - False Alarm & False Call					
711 - Municipal alarm system, malicious false alarm	1	3.4%			
715 - Local alarm system, malicious false alarm	1	3.4%			
735 - Alarm system sounded due to malfunction	1	3.4%			
740 - Unintentional transmission of alarm, other	1	3.4%			
741 - Sprinkler activation, no fire - unintentional	1	3.4%			
745 - Alarm system activation, no fire - unintentional	8	27.6%			
Total: 13	Total: 44.8%		Total: 0	Total: 0	Total: 0
Total: 29	Total: 100.0%		Total: 4,000	Total: 3,000	Total: 7,000

Report Filters

Basic Incident Date Time: is between '06/01/2020' and '06/30/2020'

Agency Name: is equal to 'NEW BRIGHTON'

Report Criteria

Incident Type (Fd1.21): Is Not Blank

CRIMINAL ACTIVITY
PART I OFFENSES
(Actual and Attempts)

MONTH OF: June 2020	Cases This Month	This Month Clearances	Cases Year-to-Date	Cases Last Year-to-Date
Homicide	0	0	0	0
Rape	0	0	1	3
Robbery	1	0	4	4
Agg. Assault	2	1	8	10
Burglary	6	0	27	19
Theft (includes shoplifting and bike)	28	2	171	146
Auto Theft	3	0	22	13
Arson	0	0	0	2
TOTALS	40	3	233	197

TRAFFIC ACTIVITY

	This Month	Year-to-Date	Last Year-to-Date
Motor Vehicle Crashes:	18	122	207
Property Damage	16	115	186
Personal Injury	2	7	21
Fatal	0	0	0
DWI	9	49	69
Parking Violations	6	99	228
Hazardous Moving Violations	32	139	205
Non-Hazardous Moving Violations	20	211	308
Traffic Stops – No Citation	63	566	1,094

MISCELLANEOUS POLICE ACTIVITY

	This Month	This Month Last Year	Year-to-Date	Last Year-to-Date
CFS by Complaint Number	903	919	4,612	4,817
CFS by Officers' Response	1,554	1,515	7,869	8,460
Adult Arrests (not including traffic)	36	30	172	169
Juvenile Arrests (not including traffic)	0	0	6	3
Warrant Arrests	0	9	21	35
Non-Traffic Citations	13	17	76	82