

## City of Baxter

# Police Department Manual

USE OF FORCE AND DEADLY FORCE			
<b>POLICY TYPE:</b>	Mandatory (POST)	<b>POLICY NUMBER:</b>	101
<b>EFFECTIVE DATE:</b>	Dec.23, 2021	<b>REVIEW DATE:</b>	12/23/2021
		<b>REVISION DATE:</b>	12/23/2021
<b>REFERENCE:</b>	MN Statutes: 626.8452, 626.8475, 609.06, 609.065 and 609.066, Policy #302		
<b>PAGE(S):</b>	7	<b>AUTHORIZED BY: Chief James Exsted</b>	

### PURPOSE

It is the policy of the Baxter Police Department to provide officers with guidelines for the use of force and deadly force in accordance with:

MN STAT 626.8452 DEADLY FORCE AND FIREARMS USE;  
POLICIES AND INSTRUCTION REQUIRED;  
MN STAT 626.8475 DUTY TO INTERCEDE AND REPORT;  
MN STAT 609.06 AUTHORIZED USE OF FORCE;  
MN STAT 609.065 JUSTIFIABLE TAKING OF LIFE; AND  
MN STAT 609.066 AUTHORIZED USE OF FORCE BY PEACE OFFICERS.

### POLICY

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

Officers shall use only 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.

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

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

This policy is to be reviewed annually and any questions or concerns should be addressed to the immediate supervisor for clarification.

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

Section (VIII) Procedure, paragraphs (A-D), are effective March 1, 2021 and thereafter.

## DEFINITIONS

1. **Bodily Harm:** Physical pain or injury.
2. **Great Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.
3. **Deadly Force:** Force used by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or great bodily harm. The intentional discharge of a firearm in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force.
4. **De-Escalation:** Taking action or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the force necessary. De-escalation may include the use of such techniques as command presence, advisements, warnings, verbal persuasion, and tactical repositioning.
5. **Other Than Deadly Force:** Force used by an officer that does not have the purpose of causing, nor create a substantial risk of causing, death or great bodily harm.
6. **Choke Hold:** A method by which a person applies sufficient pressure to a person to make breathing difficult or impossible, and includes but is not limited to any pressure to the neck, throat, or windpipe that may prevent or hinder breathing, or reduce intake of air. Choke hold also means applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries.
7. **Authorized Device:** A device an officer has received permission from the agency to carry and use

in the discharge of that officer's duties, and for which the officer has:

- a. obtained training in the technical, mechanical and physical aspects of the device; and
- b. developed a knowledge and understanding of the law, rules and regulations regarding the use of such a device.

## **PROCEDURE**

### **I. GENERAL PROVISIONS**

- A. Use of physical force should be discontinued when resistance ceases or when the incident is under control.
- B. Physical force shall not be used against individuals in restraints, except as objectively reasonable to prevent their escape or prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the amount of force necessary to control the situation shall be used.
- C. Once the scene is safe and as soon as practical, an officer shall provide appropriate medical care consistent with his or her training to any individual who has visible injuries, complains of being injured, or requests medical attention. This may include providing first aid, requesting emergency medical services, and/or arranging for transportation to an emergency medical facility.
- D. All uses of force shall be documented and investigated pursuant to this agency's policies.

### **II. DUTY TO INTERCEDE**

Regardless of tenure or rank, an officer must intercede when:

- 1- Present and observing another officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
- 2- Physically or verbally able to do so

### **III. DUTY TO REPORT**

An officer who observes another officer use force that exceeds the degree of force permitted by law has the duty to report the incident in writing within 24 hours to the chief law enforcement officer of the agency that employs the reporting officer.

### **IV. DE-ESCALATION**

- A. An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before resorting to force and to reduce the need for force.

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

## V. USE OF OTHER THAN DEADLY FORCE

- A. When de-escalation techniques are not effective or appropriate, an officer may consider the use of other than deadly force to control a non-compliant or actively resistant individual. An officer is authorized to use agency-approved other than deadly force techniques and issued equipment in the following circumstances:

- 1- Effecting a lawful arrest; or
- 2- The execution of legal process; or
- 3- Enforcing an order of the court; or
- 4- Executing any other duty imposed upon the public officer by law; or
- 5- Defense of self or another.

## VI. USE OF CERTAIN TYPES OF FORCE

- A. Except in cases where deadly force is authorized as articulated in MN STAT. 609.066 to protect the peace officer or another from death or great bodily harm, officers are prohibited from using:

- 1. Chokeholds,
- 2. Tying all of a person's limbs together behind a person's back to render the person immobile, or;
- 3. Securing a person in any way that results in transporting the person face down in a vehicle.

- B. Less than lethal measures must be considered by the officer prior to applying these measures.

## VII. SPECIFIC RULES RELATING TO THE USE OF SPECIFIC WEAPONS

- A. Impact Weapons

- 1. Impact weapons should be used only where efforts involving the use of less force have failed or where it reasonably appears that such methods would be ineffective if attempted.
- 2. Officers striking another person with an impact weapon should avoid striking, if possible, bodily areas likely to result in serious injury or death unless deadly force is authorized under this section. These areas include the head, neck, throat, groin, armpits and spine.
- 3. Officers striking another person with an impact weapon should attempt to strike, if possible, bodily areas likely to result only in incapacity. These areas include center mass target areas such as the arms, legs and body as reflected in department training.

B. Chemical Agents

1. The provisions governing non-deadly force will govern the use of chemical agents. Only chemical agents that are approved weapons will be used.
  - a. Officers will exercise due care to ensure tha only intended persons are sprayed or otherwise subject to the application of chemical agents.
  - b. Chemical agents will not be applied to any person for the purpose of effecting punishment.
  - c. First aid or medical attention will be provided to all persons sprayed with chemical agents.

C. Electronic Incapacitation Devices – Conducted Electrical Weapons

1. The use of electronic incapacitation devices will be subject to the provisions governing non-deadly force.
2. Only electronic devices that are approved weapons, as previously defined, will be used. (See Baxter Police Policy #302)

D. Less Lethal Impact Munitions

1. The use of less lethal impact munitions (LLIM) will generally be subject to the provisions governing non-deadly force. The use of LLIM could result in serious injury or death depending upon the distance to subject and impact location. The approved equipment use and application of LLIM is governed in Baxter Police Policy #302.

E. Pepperball

1. The use of pepperball will generally be subject to the provisions governing non-deadly force. The use of pepperball could result in serious injury depending upon the distance to subject and impaction location. The approved equipment use and application of pepperball is governed in Baxter Police Policy #302.

VIII. USE OF DEADLY FORCE

- A. An officer is authorized to use deadly force if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary. Use of deadly force is justified when one or both of the following apply;
  - a. To protect the peace officer or another from death or great bodily harm, provided that the threat:
    - i. can be articulated with specificity;
    - ii. is reasonably likely to occur absent action by the law enforcement officer; and
    - iii. must be addressed through the use of deadly force without unreasonable delay; or

- b. To effect the arrest or capture, or prevent the escape, of a person whom the peace officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in paragraph (a), items (i) to (iii), unless immediately apprehended.
- B. An officer shall not use deadly force against a person based on the danger the person poses to self if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that the person does not pose a threat of death or great bodily harm to the peace officer or to another under the threat criteria in paragraph (Aa), items (i) to (iii).
- C. Where feasible, the officer shall identify themselves as a law enforcement officer and warn of his or her intent to use deadly force.
- D. In cases where deadly force is authorized, less than lethal measures must be considered first by the officer.

## IX. TRAINING

- A. All officers shall receive training, at least annually, on this agency's use of force policy and related legal updates.
- B. In addition, training shall be provided on a regular and periodic basis and designed to
  - 1. Provide techniques for the use of and reinforce the importance of de-escalation
  - 2. Simulate actual shooting situations and conditions; and
  - 3. Enhance officers' discretion and judgement in using other than deadly force in accordance with this policy.
- C. Before being authorized to carry a firearm all officers shall receive training and instruction with regard to the proper use of deadly force and to the agency's policies and State statutes with regard to such force. Such training and instruction shall continue on an annual basis.
- D. Before carrying an authorized device all officers shall receive training and instruction in the use of the device including training as it relates to its use in deadly force and/or other than deadly force situations. Such training and instruction shall continue on an annual basis.
- E. Officers will carry and use only authorized devices unless circumstances exist which pose an immediate threat to the safety of the public or the officer requiring the use of a device or object that has not been authorized to counter such a threat.
- F. With agency approval officers may modify, alter or cause to be altered an authorized device in their possession or control.

X. RECORDKEEPING REQUIREMENTS

The chief law enforcement officer shall maintain records of the agency's compliance with use of force training requirements.