



**White Bear Lake Police Department**  
**POST Mandated Policy #100-01**  
**Use of Force**

**Policy #100-01 SECTION I**  
**GENERAL USE OF FORCE**

**I. PURPOSE**

A Policy for the Use of Deadly Force is required for all law enforcement agencies by Minnesota Statute 626.8452. The purpose of this policy is to provide officers with guidelines for the use of force and deadly force in accordance with:

Minn. Stat. 626.8452 Deadly Force and firearms use; policies and instruction required;

Minn. Stat. 626.8475 Duty to Intercede and Report

Minn. Stat. 609.06 Authorized Use of Force; Minn. Stat. 609.065 Justifiable Taking of Life; and

Minn. Stat. 609.066 Authorized Use of Force by Peace Officers. MN

Statute 629.32 Minimum Restraint Allowed For Arrest

MN Statute 629.33 When Force May Be Used To Make Arrest

**II. SCOPE**

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

**III. DEFINITIONS**

**A. *Non-Deadly Force*:** all 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.

**B. *Deadly Force*:** all use of force techniques 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.

**C. *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.

- D. *Weapon*:** any instrument used, or designed to be used, to apply force to the person of another.
1. For the purpose of delineation, referring to a shotgun in the proceeding policies implies less-than lethal shotgun only. Ammunition for shotguns other than less-than lethal projectiles/rounds is strictly prohibited. WBLPD will only employ 12 gauge less-than lethal shotguns in instances were a shotgun is being deployed.
- E. *Approved Weapon*:** a device or instrument which 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:
1. Obtained training in the technical, mechanical and physical aspects of the device;  
and
  2. Developed a knowledge and understanding of the law, rules and regulations regarding the use of such weapons.
- F. *Impact Weapons*:** objects and instruments that are used, or are designed to be used, to apply force to the person of another by coming into physical contact with that person.
- G. *Chemical Agents*:** chemical irritants including CN/Chloracetophenone, OC/Oleoresin Capsicum, CS/Orthochlorobenzalmalononitrile or combinations of these chemical agents.
- H. *Electronic Incapacitation Devices*:** a portable device which is designed or intended by the manufacturer to be used, offensively or defensively, to temporarily immobilize or incapacitate persons by means of electric pulse or current. Per Minn. Stat. 624.731, Subd. 1(b), Electronic incapacitation devices do *not* include cattle prods, electric fences or other electric devices that are used in agricultural, animal husbandry or food production activities.
- I. *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.
- J. *Tactical Disengagement*:** Tactical Disengagement is the tactical decision to leave, delay contact, delay custody or plan to make contact at a different time and under different circumstances. This tactic should be considered when an officer reasonably believes continued contact may result in an unreasonable risk to the involved person, a suicidal subject, the public and/or Department members.

## **IV. POLICY**

### **A. Use of Deadly Force**

It is the policy of this agency to accord officers discretion in the use of force to the extent permitted by Minn. Stat. 609.066, Subd. 2, which states a peace officer in the line of duty is justified to use deadly force only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary:

1. 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

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 and the officer reasonably believes that the person will cause death or great bodily harm to another person under the threat criteria in clause (1), items (i) to (iii), unless immediately apprehended.

3. A peace 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 (a), clause (1), items (i) to (iii).

### **B. Officer-Involved Shooting**

1. When possible, an outside agency, such as the BCA, will be called to investigate the case in which the shooting occurred.
2. Any officer involved in a deadly force incident shall be placed on "Administrative Leave" after completing all internal investigative requirements and reports on the incident. Such leave shall be without loss of pay or benefits, pending the completion of the

investigation. While on administrative leave, the officer shall remain available for official department interviews and statements regarding the incident and be subject to recall duty at any time. The weapon involved in the shooting shall be taken into custody as evidence as soon as possible by the Operations Division Captain and the officer involved shall be issued another department-owned weapon. The officer shall not discuss the incident with anyone except a psychologist, department investigators assigned, the Chief of Police, the City or County attorney, the officer's attorney or union's legal representative, clergy or immediate family.

*Julie Swanson*

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**Julie Swanson**  
**Chief of Police**

Revised:12/29/21

# *Policy #100-01 SECTION II*

## *FIREARMS*

### **I. PURPOSE**

The purpose of this policy is to provide officers with guidelines for the use of firearms and training, pursuant to the execution of their official duties.

### **II. SCOPE**

This policy applies to all sworn personnel of this agency engaged in the discharge of official duties.

### **III. POLICY**

#### **A. Weapons and Qualifications**

1. The Administrative Captain is responsible for coordinating the firearms training program with input from the Chief of Police and the Departmental Firearms Instructors.
2. Participation schedules are as follows:
  - a. Officers may receive ammunition monthly for the purpose of practice. Some of this allotment will be used in formal departmental practice sessions and some may be provided for individual practice by the officer.
  - b. Officers will qualify three times annually with their primary service weapon, and should train four times per year, with at least one of the training sessions being in low light conditions and inclement weather. Full service load equivalent ammunition will be used for qualification purposes.
  - c. Officers will qualify with secondary, back-up or off-duty weapons annually, if different from their primary weapon. The record of qualifications shall be kept on file.
  - d. All officers are expected to meet annual POST firearms requirements and attend scheduled mandatory range training sessions.
  - e. New officer employees are to qualify with all weapon systems prior to starting field patrol training..
  - f. Officers on Field Training (FTO) are required to leave their duty weapons appropriately secured, within the WBLPD, unless otherwise authorized by the

Chief of Police. Exception may be made (with approval) for a lateral transfer. Officers on Field Training may not wear their uniform home or carry a badge while off duty.

3. Courses of fire for qualification, training or other specialized purposes will be decided upon by the departmental firearms instructors based on the needs of the department and to be kept within POST mandated requirements.
4. An officer must achieve an 80 percent score in qualifications. A score of less than 80 percent will result in an "unqualified" status.
5. Officers who do not initially qualify will be coached & shoot additional courses in an attempt to qualify. Assistance will be provided by a firearms instructor.
6. If an officer does not qualify after several attempts, a departmental firearms instructor will consult with the Administrative Captain to arrange special training for the employee and the officer involved shall be immediately reassigned to non-enforcement duties.
7. Duty weapons carried by uniformed officers are to be department issued.
8. Off duty/backup officer-owned weapons must be approved by the Chief of Police or by authorized direction to the range master. The department must be provided with the make, model, and serial number of such weapon. Authorization must be obtained before the officer may carry the weapon. The weapon must be of quality manufacture and be of a caliber 9 mm, .351 or larger. The weapon may be either a pistol or revolver.

## **B. Rules**

1. Duty weapons shall be used for qualification purposes.
2. For officers who carry secondary, back-up, or off-duty weapons other than the duty weapon, proficiency with those weapons must be demonstrated annually.
3. Officers in uniform should carry their duty weapon in a security type holster, but in any event, any holster utilized must be approved by administration before an officer will be allowed to carry it.
4. Officers who cannot qualify with their duty weapons after receiving additional coaching/training from a department firearm instructor will be placed on suspension status until such time as they satisfactorily qualify. Repeated failure to qualify is an indication that the Officer no longer meets job requirements and may subject the Officer to disciplinary action according to Department policy.

### C. Carrying and Use of shotguns / rifles

1. Before being permitted to use department shotguns/rifles, officers are to be officially certified by a department firearms instructor to ensure:
  - a. Officers have demonstrated adequate knowledge of shotgun/rifle safety.
  - b. Officers have qualified through an official Department-operated shotgun/rifle qualification course.
2. Officers are certified in the use of department shotguns/rifles at least annually by a department firearm instructor.
3. Each marked squad car designated to be equipped with a shotgun / rifle shall have a serviceable weapon(s) assigned to it. The Officer(s) assigned will also make a safety check on the weapon(s). While in the squad car the shotgun / rifle will be stored in a locked gun mount in the driver's compartment.
4. While in a squad car, the shotgun/rifle shall be stored with a fully-loaded magazine tube, an empty chamber, the hammer rear-ward (cocked), and the safety on.
  - a. Rifles will be stored with an empty chamber, hammer forward (cocked), safety on, loaded magazine inserted, dust cover closed.
5. The use of a shotgun / rifle under tactical conditions is at the discretion of the officer.
6. A live round shall only be placed into the chamber of a shotgun / rifle only when the officer has an indication that he / she may need to fire the weapon.
7. Prior to removing the shotgun / rifle from the scene of a tactical situation, the officer shall ensure there is no round in the chamber, the action is closed, the hammer is cocked (hammer rear-ward), [and the weapon's safety is on].
8. If at any time an officer determines a shotgun / rifle is defective or unsafe, the officer should return the shotgun / rifle to the gun locker, tag the shotgun / rifle for repairs (including on the tag the type of problem with the shotgun / rifle) and write a memo to a Firearms Armorer describing the malfunction of the weapon.
9. Standard ammunition for rifles shall be .223 / 5.56mm 55 grain ammunition. Extra ammunition / loaded magazines can be placed in each car.
10. Department certified armorers shall see to the cleaning and lubrication of all department shotguns / rifles on a regular basis and administratively keeping record of the firearms.

#### **D. Method of carrying weapons**

1. Double-action revolvers shall be carried with the cylinder fully loaded hammer forward.
2. Double-action semiautomatic pistols equipped with a de-cocking type safety mechanism shall be carried de-cocked with a live round in the chamber, and a loaded magazine.
3. Single-action semiautomatic pistols shall be carried with a live round in the chamber, a loaded magazine inserted, the hammer fully cocked, and the thumb safety engaged.
4. Officers in uniform shall carry their weapon on the strong-hand side. All uniform duty holsters shall have a positive retention device of some type and when a holster is replaced, it shall be of a security design. The officer shall also be required to demonstrate proficiency un-holstering and re-holstering their weapon.
5. Officers in full uniform shall carry on the duty belt a minimum of two complete reloads for their weapon.
6. Officers in plain clothes should carry their weapon concealed and may use a shoulder holster. The holster must be equipped with a retention device, whether active or passive, and the officer's badge must be available for immediate display. The badge is to be worn on the same side as the firearm.
7. Officers in plain clothes should carry a minimum of one spare reload for their weapon. This reload should be carried in a speed loader or magazine, dependent on their choice of weapon.

#### **E. Inspection of weapons and carrying weapons off duty**

1. Prior to any weapon being placed in service, either on duty or off duty, the weapon shall be inspected by a Department firearms officer. Once placed into service, the weapon shall be inspected at times by a firearms officer to determine functionality and signs of wear.
  - a. No weapon modifications are allowed to include engravings, hair trigger devices and/or offensive labels/placards/parts.
  - b. All weapons used in a law enforcement capacity shall be inspected, by a qualified armorer, at least annually and a record of such shall be kept.
2. Officers who carry a weapon off duty shall carry it in a concealed manner to avoid public alarm.
3. In no case will an officer who chooses not to carry a weapon while off duty be subject to disciplinary action if an occasion should arise in which he/she might have taken forcible police action had he/she been armed.



4. Off-duty officers should refrain from taking forcible police action except in circumstances that present a serious threat of death or great bodily harm. Officers should consider the risks to themselves and to others that may be caused by a sudden confrontation with armed suspects. If it is feasible, off-duty officers should identify themselves as a police officer prior to taking any action. In no case shall an officer carry a weapon off duty unless they also carry their police identification or a Minnesota Personal Protection Act Carry Permit.
5. Weapons must be kept clean and serviceable, subject to inspection at any time. Any un-approved or malfunctioning weapon shall not be carried in any capacity for law enforcement purposes.
6. All modifications must be approved by a firearms training officer or the Chief of Police and performed by a competent gunsmith / armorer.

**F. Handgun storage and safety**

1. While carrying a sidearm, an officer shall at all times be conscious of gun safety and accident prevention. Measures to be taken include:
  - a. When removing your weapon for jail or court, the weapon should be placed under lock and key.
  - b. There shall be no indiscriminate displaying of weapons.
  - c. When using public restrooms or facilities, weapons shall be handled in such a manner as to avoid their being dropped, lost, forgotten or stolen.
2. When officers are off duty and the weapons are in their homes, officers should store weapons with the following considerations:
  - a. Weapons should be unloaded if they are not stored in a secured fashion.
  - b. Weapons and ammunition should be stored out of reach of children and guests.

**G. Use or loss of off-duty / backup handguns**

Officers shall make notice with the department of a firearm(s) intended for backup/off duty use. Any loss of such weapon(s), whether individual or department owned, shall be reported immediately and shall set forth all the facts concerning the loss.

*Julie Swanson*

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**Julie Swanson**  
**Chief of Police**

Revised 12/29/2021

# *Policy #100-01 SECTION III ELECTRONIC CONTROL DEVICE POLICY*

## **I. PURPOSE**

The purpose of this policy is to provide officers with guidelines for the use of Electronic Control Devices and training, pursuant to the execution of their official duties.

## **II. SCOPE**

This policy applies to all sworn personnel of this agency engaged in the discharge of official duties.

## **III. POLICY**

Use of White Bear Lake Police Department-issued Electronic Control Advise (ECD) is considered less lethal force. The White Bear Lake Police Department issued "TASER" brand is the only authorized ECD for White Bear Lake Police Department on-duty officers.

### **A. Taser use:**

TASERs may be used as follows:

1. Holstered TASERs must be carried on the officer's reaction (support) side to avoid the accidental drawing or firing of a sidearm.
2. The use of TASERs is normally considered to be at the same level of force as Chemical Agents. ECDs may be deployed when an officer encounters Defensive Physical Resistance, and above as defined in the White Bear Lake Police Department's Use of Force Continuum. TASERs shall not be used on passive subjects or as a come-along tool.
3. The TASER may be used with or without the air cartridge. The TASER "probe mode" should be the primary setting option with "drive stun mode" generally used as a secondary option.
4. When activating a TASER, officers should use it for one standard cycle and stop to evaluate the effectiveness and the situation (a standard cycle is five seconds). TASERs should only be used for more than two cycles if the subject continues to be serious threat of bodily harm to the officers or citizens. If the Taser is being effective, subsequent cycles may be required to facilitate handcuffing as appropriate. Each time the TASER is activated it is considered a separate use of force, and shall be justified.

When possible, the TASER with air cartridge should be directed at the center mass of the body, i.e., to the subject's back, or below the chest when possible. The lower body may be the only available target area if the subject is wearing heavy clothing. The TASER shall not be intentionally aimed at the head neck, face or genitalia. (See attached diagram of preferred target areas.)

1. Only one officer should deploy a TASER against a person at a time.
2. When feasible and practical, and if possible, officers should announce over the radio that they are going to deploy the TASER
3. It is important that whenever possible, all officers involved and possible responding officers know that a TASER is being deployed so they don't mistake the sight and noise from the TASER going off as a firearm discharge. Officers announcing the actual firing of the TASER should yell "TASER!" prior to and/or during firing. If the firing of the TASER is not announced prior to the firing of the TASER, it shall be announced as soon as practical after the firing of the TASER. However, officers using TASERs must use their judgment to determine if a verbal warning of the TASER discharge is appropriate in each specific situation.
4. Officers should know that electronic control devices, including the TASER, can ignite flammable substances. The TASER shall not knowingly be used on subjects who have come in contact with flammables or in areas where flammables are known by the officer deploying the TASER to be present.
5. TASERs may only be used on fleeing persons if the subject's actions justify the use of hard empty hand as outlined in the White Bear Lake Police Department Use of Force Continuum. This level is appropriate for fleeing felons or the arrest of a subject who is actively aggressive, or has been actively aggressive i.e., actually fighting against police officers.
6. TASERs may only be used on children, visibly frail persons, women who are known to be pregnant, and people with known heart problems when other hard empty-hand control methods have failed or deadly force is justified.
7. TASERs may only be used on those in control of a motorized vehicle or bicycle in motion or those in a location where a fall may cause substantial injury or death when the subject's actions justify deadly force.

#### **B. Threats from an ECD:**

Officers threatened by a subject armed with an ECD are at risk of being incapacitated and possibly disarmed. They should take defensive measures to protect themselves when feasible. The range of possible threat is just over 25 feet. Optimum range for current market ECDs is 15 feet. If the situation permits, officers should consider taking cover, backing up, and trying to split up, to allow for a safer attempt to disarm the subject. It is not automatically a deadly

force situation if one officer is shot with an ECD, when there are other officers at the scene unless the subject makes an effort to get the downed officer's gun or poses other serious threats to the officers.

### **C: Duties after deployment:**

Once the subject is restrained or has complied, the TASER shall be turned off and wires disconnected. Officers shall use a continued restraint technique that does not impair respiration.

Probes located in sensitive areas such as the face, neck, groin, and breast shall be removed by medical personnel. Probes located in other areas may be removed by officers at the scene at the direction of the on-scene supervisor. Officers should treat used probes as a biohazard and remove TASER probes using practiced precautions against blood borne pathogens. Officers will ensure that proper medical care is provided to the subject, and officers will regularly monitor anyone subjected to TASER activation until they are in the custody of detention or medical personnel.

Per White Bear Lake Police Department use of force reporting policies, a report shall be written whenever a TASER is deployed.

The officer that deployed the TASER shall photograph, or arrange for a photograph to be taken, of the probe site marks. Once the probes have been removed, the probes shall be treated as biohazard "sharps" and placed point down into the expended cartridge and sealed with tape. The photographs and expended cartridge with probes shall be property inventoried as evidence.

Officers shall inform detention or medical personnel that a TASER was used when they turn over the arrestee or subject.

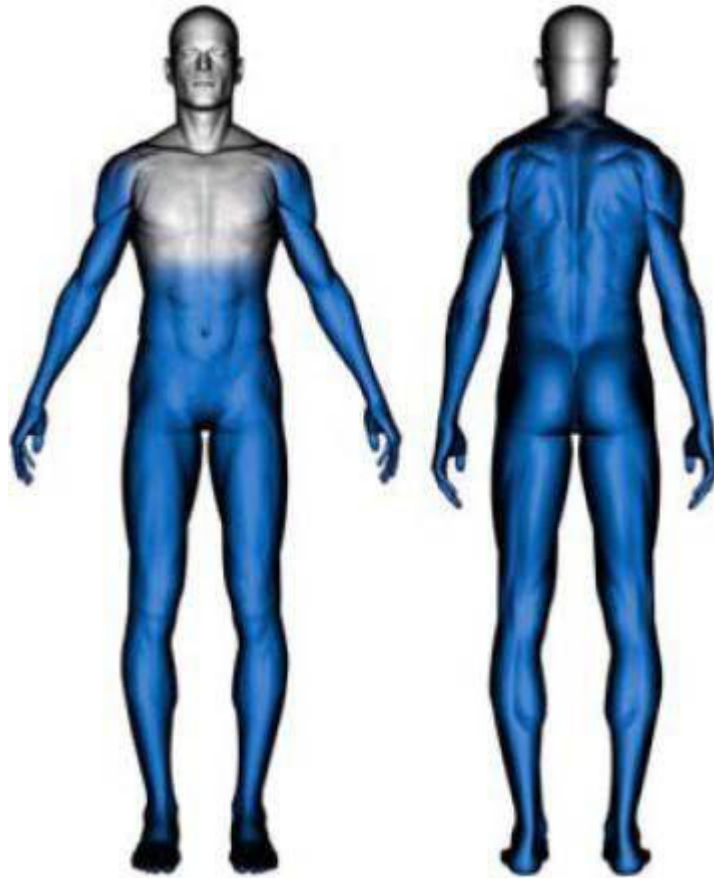
Officers must submit discharged TASERs for downloading following Training Unit protocols.

### **D: Annual Training:**

All sworn members of the department must complete annual training to demonstrate acceptable knowledge and skill in the use of TASERs. Newly hired officers may submit a TASER Certificate earned from another law enforcement agency, or certified TASER Instructor as proof of current and past TASER certification. The White Bear Lake Police Department will determine minimum standards for TASER training.

# Taser Preferred Target Areas

(Shaded)



***Julie Swanson***

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**Julie Swanson**  
**Chief of Police**

Revised: 12/29/2021

# *Policy #100-01 SECTION IV LESS LETHAL SHOTGUN*

## **I. PURPOSE**

This policy provides guidance in the lawful use of Less Lethal Projectiles by White Bear Lake Police Officers, pursuant to the execution of their official duties.

## **II. SCOPE**

This policy section applies to all White Bear Lake Police Department members, both sworn and non-sworn, who, within the scope of their duties and employment, have occasion to use force upon any person. Failure to comply with the provision of this policy may result in disciplinary action, up to and including dismissal and/or criminal or civil prosecution.

## **III. DESCRIPTION**

Less lethal shotguns will be placed and available within the patrol vehicles. This less lethal weapon is clearly indicated with orange painting and markings and is thus differentiated from other types of police weapons or force options. The less lethal is to be stored with four "bean bag" rounds in the magazine and four additional "bean bag" rounds stored on the butt of the less lethal shotgun.

When stored in the vehicle, the chamber will be empty with the slide forward. At no time shall any buck shot ammunition, slug shotgun ammunition, nor any other non bean-bag ammunition be placed in or fired from the less lethal shotgun.

This authorized "bean bag" less lethal round is a Defensive Technology (brand) 12 gauge Drag Stabilized round. According to the manufactures 2006 Specification Manual, this 12 gauge Drag Stabilized round "proves most successful for incapacitation when used within its optimal energy range of approximately 20 to 50 feet." Those trained in the use of the less lethal shotguns in conjunction with the Defensive Technology 12 gauge Drag Stabilized rounds shall be familiar with this Specification Manual. In the event that Defensive Technology brand rounds are no longer available for purchase, or are no longer feasible for use within the WBLPD department, the Operations Captain will determine a suitable replacement to be utilized in accordance with this policy.

- A. Less lethal projectiles are an intermediary weapon when deployed to areas of the subject's body that are considered less likely to cause death or serious physical injury.
- B. Less lethal projectiles should be delivered in accordance with the manufacturer's recommendations and guidelines.
- C. Only officers trained in the use of less lethal projectile weapons are authorized to deploy less lethal rounds.

- D. Only approved less lethal rounds will be used.
- E. Only a marked less lethal weapon (by color, orange) will be used to deploy the less lethal round.
- F. Prior to loading a less lethal weapon two officers, when feasible, that are trained in round identification will examine the round prior to it being loaded.
- G. Prior to firing the weapon, an officer must give verbal warning, if feasible, to the subject.
- H. Prior to firing the weapon, when practical an officer shall inform all officers at scene and over the radio that "less lethal is on scene and ready for deployment."
- I. The back-up officer assisting the officer with a less lethal weapon should, when feasible, announce that bean bags are going to be used.
- J. Less lethal casings and projectiles will be collected if possible and placed into Property/Evidence. The officer will properly package the casings and/or projectiles in accordance with departmental policy on retaining evidence.
- K. When a less lethal weapon is used, it will be taken out of service to be tested.
- L. Whenever feasible, the less lethal shotgun should not be deployed on targets within 21 feet. For situations where a less lethal tool is needed for deployment on subjects, other use of force options shall be considered (such as an Electronic Incapacitation Device). For the purposes of this policy, this section is not applicable to situations involving the authorized use of deadly force and training deployments of less lethal projectiles.
- M. Once discharged, the shotgun may be placed back into service. The casings and projectile must be logged into evidence and be kept for six years.
- N. Deployment Areas:
  - 1. The less lethal projectiles should be delivered to the suspect target areas based on the circumstances involved in the incident. The threat level of the suspect, the proximity of officers to the suspect, the position of the suspect related to the availability of potential target areas, the physical layout of the incident scene, and officer safety issues present are all factors to consider when selecting a target area.
  - 2. The target areas that have a minimum implication of suspect injury are the large muscle groups of the arms and legs, as well as the buttock area. Other non-deadly force target areas having an increased implication of suspect injury are the front torso of the body, from below the sternum to



the waistline, and the back torso of the body, from the shoulder blade area, ending above the kidney area.

3. Areas that are not recommended as targets unless deadly force is authorized (in accordance with state law and departmental policy), are the groin, spine, kidneys and joints, due to the higher probability of injury.
4. Intentional impacts to the head, neck, throat and clavicle area are considered deadly force, and will be avoided unless the use of deadly force is justified. The use of less lethal munitions as a lethal force option should generally be a secondary option. The primary weapon recommended when encountering a deadly force threat is the officer's duty weapon.

**All subjects who are struck by a less lethal projectile shall receive appropriate medical treatment by emergency medical personnel and/or transported to the hospital for examination. Photographs of the subject's injuries will be taken whenever possible. A medical release form is to be completed and the names of medical staff will be collected for the report, if possible.**

- O. The less lethal shotgun in conjunction with approved "bean bag" style ammunition may be used in both deadly and non-deadly force situations in accordance to Minnesota State Statute. On the White Bear Lake Police Department Use of Force Continuum, the "less lethal shotgun" falls between impact weapons and deadly force. Although less lethal is equivalent in nature to other hand-held weapons, (in terms of force delivered), this tool may be less accurate than other hand-held weapons due to its use at further distances and the potential for rare deployment inaccuracies which could lead to a more lethal impact. As a result, the less lethal shotguns will be considered to fall between Impact Weapons and Deadly Force on the WBLPD Use of Force Continuum.

*Julie Swanson* \_\_\_\_\_

**Julie Swanson  
Chief of Police**

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# *Policy #100-01 SECTION V RULES GOVERNING USE OF FORCE*

## **I. PURPOSE**

The purpose of this policy is to provide officers with guidelines for rules governing general use of force, including use of force reporting and the use of force continuum, pursuant to the execution of their official duties.

## **II. SCOPE**

This policy applies to all sworn personnel of this agency and other trained personnel engaged in the discharge of official duties.

## **III. POLICY**

### **A. Use of Force Reporting - ALL ARRESTS and INCIDENTS INVOLVING FORCE**

1. To ensure that all instances involving use of force are reported and evaluated administratively, officers shall complete a police report and an electronic response to resistance report prior to the end of their tour of duty and submit to the on-duty sergeant or SAO. This report is mandated when officers make contact with a subject with involves the use of Soft Empty Hand Control through Deadly Force, as outlined in the Use of Force Continuum (Section F below).
2. The sergeant or SAO shall evaluate the articulated use of force in conjunction with the submitted offense report for clarity, detail and compliance with this general order, state statute and other existing orders as applicable. The Operations Division Captain may elect to have the matter reviewed via BWC further either by a supervisor or through an internal affairs investigation if warranted. If further investigation review is elected, the Operations Division Captain will forward the response to resistance report and/or police reports to the Chief of Police for review. Upon completion of the Chief of Police review, all documentation shall be maintained in the Records Management System for tracking purposes.
3. While handcuffing a subject may require a general police report, the act of solely placing handcuffs on a subject does not require a response to resistance report.

## **B. Use of Non-Deadly Force**

1. It is the policy of this agency to accord officers discretion in the use of non- deadly force to the extent permitted by Minn. Stat. 609.06, which permits police officers to use reasonable force in:
  - a. Effecting a lawful arrest; or
  - b. The execution of legal process; or
  - c. Enforcing an order of the court; or
  - d. Executing any other duty imposed upon the public officer bylaw.
2. In determining the degree of force that is reasonable under the circumstances, officers should consider:
  - a. The severity of the crime at issue;
  - b. Whether the suspect poses an immediate threat to the safety of the officers or others, and;
  - c. Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

## **C. General Rules Governing Use of Force**

1. Officers should use the least amount of force reasonably necessary to accomplish the intended objective without impairing the safety of others. This provision should not be construed to require officers to first attempt using types and degrees of force that reasonably appear to be inadequate to accomplish the intended objective.
2. Protracted hand-to-hand combat may be harmful to the public safety, the safety of law enforcement personnel, and the safety of the person being arrested or captured. Accordingly, it shall be deemed reasonable for officers to use that type and degree of non-deadly force necessary to bring a subject whom the officer intends to arrest or capture quickly under control.
3. Officers will carry and use only approved weapons unless circumstances exist which pose an imminent threat to the safety of the officer or the public requiring the immediate use of a non-approved weapon to counter such a threat. This provision should not be construed as authorizing officers to use a non-approved weapon where, under the circumstances, it would be feasible to procure approval for use of the particular weapon prior to its use.

4. No officer will modify, alter or cause to be altered an approved weapon in his or her possession or control.
5. Displays of Firearms - firearms may be readied for use in situations where it is reasonably anticipated that they may be required.
6. Threatening the Use of Force - an officer may announce to another his or her intention to use only that type and degree of force that may reasonably be necessary under the circumstances. This provision should not be construed to authorize or endorse the use of discourteous, abusive or unprofessional language.
7. Duty to Intercede and Report
  - a. Regardless of tenure or rank, a peace officer must intercede when:
    - present and observing another peace officer using force in violation of section 609.066, subdivision 2, or otherwise beyond that which is objectively reasonable under the circumstances; and
  - b. physically or verbally able to do so.
  - c. A peace officer who observes another employee or peace 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 peace officer
  - d. A peace officer who breaches a duty established in this subdivision is subject to discipline by the board under Minnesota Rules, part 6700.1600.
8. Tactical Disengagement - There may be incidents involving a person who is not a threat to officers or others that a responding officer or supervisor believes can be handled more safely through the use of tactical disengagement. This policy recognizes that the legal authority to take a person into custody does not override law enforcement discretion to pursue safer courses of action.

If officers determine that tactical disengagement may be appropriate, they should contact the on-duty patrol supervisor for the incident. The patrol supervisor for the incident should respond to the scene if able. If, after attempting contact and de-escalation techniques, the patrol supervisor determines that the person is not a known or reasonably believed threat to others and that further interaction with the individual may result in an increased risk to the person, the public, or officers, the on-scene supervisor should develop a plan for tactical disengagement.

#### 9. Tactical Disengagement Procedures Continued:

- a. If a subject is not responding or cooperative, does not present a known or reasonably believed threat to officers or others, and the on-scene supervisor determines that an immediate arrest is not required, the supervisor and/or officers under their direction should proceed as follows:
- b. Attempt to use all appropriate and available department resources to safely resolve the situation.
- c. Ensure that the family members, friends, and the subject are provided information about resources and services available to them, as reasonably possible under the circumstances. Additional basic needs should also be considered.
- d. After reasonable attempts are made to contact the subject without resolution, the supervisor should order officers to withdraw from the area.

Under these circumstances, officers should not:

- e. Escalate or make forced entry into the location or close distance on the person while attempting tactical disengagement, unless a change in circumstances makes a closer intervention appropriate under the department's general orders.

- f. Force entry to arrest the subject for pending misdemeanor charges or misdemeanor warrants. This does not prevent the subject from being charged out of custody.
- g. Force entry to enforce civil commitment or emergency examination orders.

## **D. Specific Rules Relating to the Use of**

### **Specific Weapons Firearms**

1. White Bear Lake peace officers are permitted to fire their weapons under the following circumstances:
  - a. At an approved target at an approved firing range.
  - b. In order to destroy an animal that appears to be suffering so from an apparent fatal wound or sickness that humanity requires it. Under this circumstance the animal may be destroyed after a reasonable attempt has been made to contact the owner or agency responsible for injured animals, and/or after the action has been cleared by the shift supervisor.
  - c. At any animal that represents a threat to public safety.
  - d. To protect the peace officer or another from apparent death or great bodily harm.
2. Whenever an officer discharges their firearm, either accidentally or officially, the officer shall immediately, or as soon as possible:
  - a. Determine the physical condition of any injured person and render first aid when appropriate.
  - b. Request necessary emergency medical aid.
  - c. Notify their supervisor.
3. Warning shots shall not be fired. Officers shall not fire at moving vehicles except in situations where deadly force is authorized and only after exercising due regard for the safety

of others.

4. In cases where personal injury or death occurs as a result of an officer discharging a firearm, the Chief of Police shall be notified immediately.
5. This section applies to shooting incidents on and off-duty and to incidents in and out of the City of White Bear Lake.

### **Impact Weapons**

1. All officers will carry an expandable or collapsible baton and receive annual training.
2. 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.
3. Officers striking another person with an impact weapon should, if possible, avoid striking 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.
4. Officers striking another person with an impact weapon should attempt, if possible, to strike bodily areas likely to result in incapacitation. These areas include center mass target areas such as the arms, legs and body.
5. Any time an officer finds it necessary to strike a subject with an impact weapon, the officer will immediately, or as soon as practical, contact the supervisor and inform the supervisor of the nature of the incident.
6. Once a subject has been brought under control with the use of an impact weapon, the officer will ensure that the subject will receive adequate medical attention, if necessary, as soon as possible.

### **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.

2. All officers will carry an approved chemical agent.
3. Officers will exercise due care to ensure that only intended persons are sprayed or otherwise subject to the application of chemical agents.
4. Chemical agents will not be applied to any person for the purpose of effecting punishment.
5. First aid or medical attention will be provided to all persons sprayed with chemical agents.
6. Whenever an officer books into jail a subject who has been exposed to chemical agents, the officer shall advise the jail personnel to prevent the unnecessary contamination of other jail occupants or personnel.
7. Any time an officer finds it necessary to use a chemical agent for subject control, the officer will immediately or as soon as practical contact a supervisor and advise him/her of the nature of the incident.

#### **Electronic Incapacitation Devices**

1. The use of electronic incapacitation devices will be subject to the provisions governing non-deadly force and Section III of this policy.
2. Only electronic devices that are approved weapons, as previously defined, will be used.

#### **E. Use of Restraints**

1. When restraining and transporting any subject, where possible, the subject will be transported in a marked patrol vehicle equipped with a security screen.
2. All persons under arrest that are transported in patrol vehicles should be handcuffed.
3. All subjects taken into custody, if handcuffed, should be handcuffed behind their back. The handcuffs should be checked for proper wrist clearance and the handcuffs should



be double-locked. An exception to this rule is when the subject has an injury that does not permit their arms to move behind their back. Other factors such as the subject's age, physical condition, or physical limitations may also dictate a change in this procedure.

4. To ensure proper safety for officers, all subjects should be handcuffed before being searched.
5. Except under exceptional circumstances, officers should not handcuff a subject to fixed objects such as posts, vehicles, buildings, etc.
6. It is not uncommon for an officer to arrest a subject, place them in restraints, and then have the subject start to resist. If an officer does encounter this type of resistance, the officer should utilize control techniques to prevent injuries to the officer or injuries to the subject. However, the control techniques should be limited to those which would not be construed as excessive force.

#### **F. USE OF FORCE CONTINUUM**

- A. In many cases, some level of physical force will be necessary to effect an arrest or to protect others. That amount of physical force may be as low as placing a hand on a subject's shoulder or arm, and directing that subject to place his hands behind his back for handcuffing. Depending on the level of resistance offered, the officer may use techniques that may escalate to physically pinning the subject to respond to techniques that influence behavior by eliciting pain in order to apply handcuffs using chemical weapons, hand/leg strikes, impact weapons, or even the use of a firearm, if the resistance offered is severe. In all cases, MN Statute 609.06 indicates that only "necessary" force is justified. Any force above that act would be unjustified, and a criminal act by a police officer would then occur.
- B. For the purpose of this policy, the use of force will be examined from two perspectives: resistance and control. Both control and resistance can be in the form of verbal directives or physical action; resistance is defined as actions that are directed from the subject towards an officer, while control is directed towards the subject.

1. Resistance is manifested by the subject who attempts to evade an officer's attempts of control. The amount and type of resistance will vary, based on a multiple of factors.
2. Control is the force an officer uses to influence or neutralize the unlawful, physical actions of a subject under arrest. Generally, there are four times an officer is justified in using physical control methods. These are to stop potentially dangerous and unlawful behavior; to protect the officer or another from injury or death; to protect a subject from injuring himself; and in the process of effecting lawful arrest, when the subject offers resistance.
3. Justification of the use of force in the judicial system is measured by two broad standards. First, the officer's use of control methods was initiated by a subject's resistance. Second, the level of physical force used by the officer was "necessary" and not excessive when considering the type of resistance offered by the subject.

## **G. LEVELS OF RESISTANCE OR AGGRESSION**

Resistance is defined as the force used by a subject under arrest against the officer(s) who is effecting the arrest. Although the resistance offered by a subject is usually physical, the type and amount of resistance an officer meets is determined by the subject's level of intent. The intent of the subject may range from passive resistance to an active, aggressive attack on the officer.

Resistance may be categorized into three (3) broad areas;

- I. Verbal dialogue, i.e., denial or threats of resisting arrest;
- II. Physical resistive actions, i.e., passive resistance/active resistance; and,
- III. Aggressive acts; i.e., against the officer, often leading to severe physical injury.

The officer's actions to resistance will be based upon his/her

perception of the level of resistance. The officer has been trained to use the necessary amount of force to control a subject offering any level of resistance.

### **1. Cooperative**

A person contacted by an officer who acknowledges direction or lawful orders and offers no passive, active, aggressive, or aggravated aggressive resistance. A person who is cooperative is not resisting.

### **2. Passive Physical Resistance**

The person is not complying with an officer's commands and is uncooperative, but is taking only minimal physical action to prevent an officer from placing them in custody and rendering the situation safe. Examples include: standing stationary and not moving upon lawful direction, falling limply and refusing to use their own power to move (becoming "dead weight"),

### **3. Active Resistance**

The person's verbal or physical actions are intended to prevent an officer from placing them in custody and rendering the situation safe, but are not directed at harming the officer. Examples include: walking or running away, breaking the officer's grip, spitting. Verbal arguing alone does not constitute active resistance

### **4. AGGRESSIVE RESISTANCE**

The person displays by their behavior the (perceived) intent to harm the officer, themselves or another person and prevent an officer from placing them in custody and rendering the situation safe. The aggression may manifest itself through a person taking a fighting stance, punching, kicking, striking, attacks with weapons or other actions that present an imminent threat of physical harm to the officer or another.

### **5. AGGRAVATED AGGRESSIVE RESISTANCE**

The person's actions are likely to result in death or serious bodily harm to the officer, themselves or another. These actions may include using or threatening to use firearm, use of blunt or bladed weapon, or extreme physical force

Any time an officer finds it necessary to strike a subject and an injury occurs, it is the policy of this department that the officer shall immediately contact their supervisor and advise the supervisor of the nature of the injury. Arrange for transport of the subject to the closest or most appropriate medical facility for medical attention, or notify the Supervisor to arrange this.

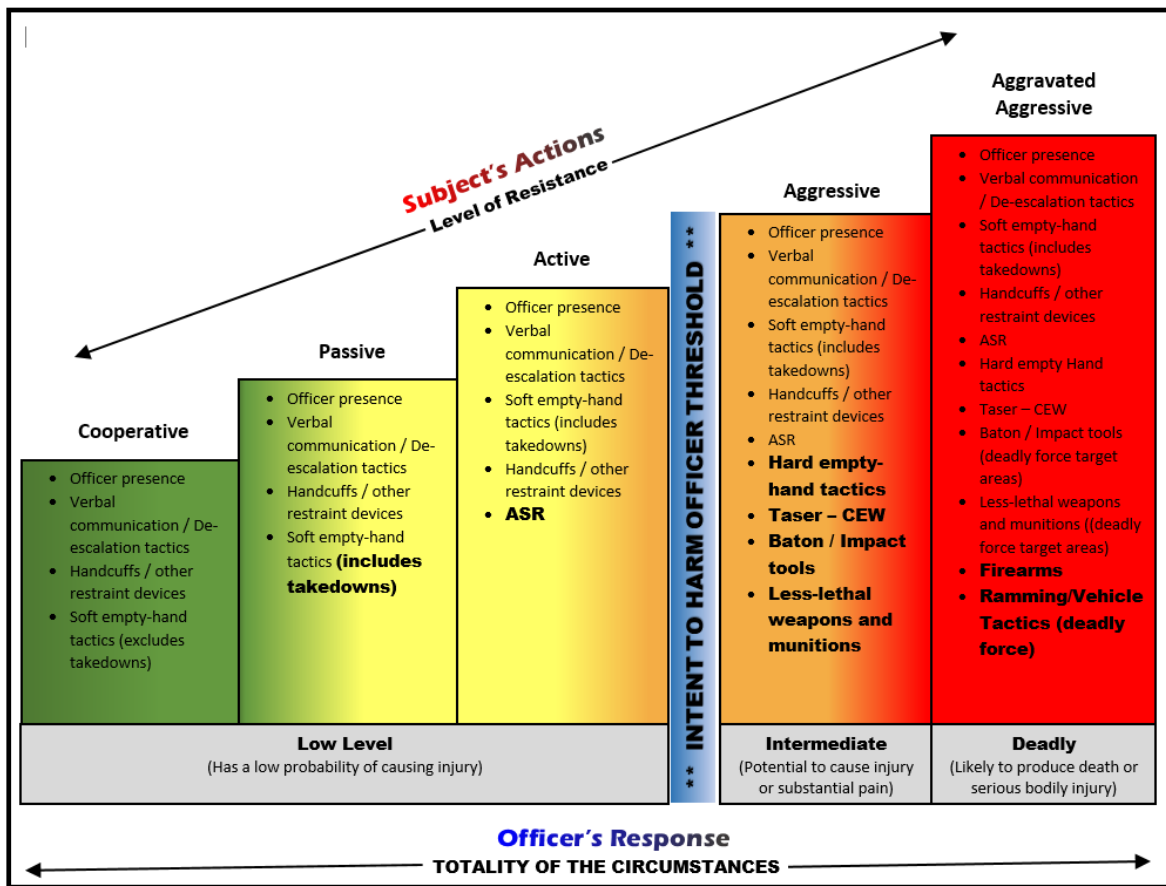
*Julie Swanson*

**Chief of Police**

Revised: 12/29/2021

## RESPONSE TO RESISTANCE OR AGGRESSION MODEL

Each bold face option within the options for an officer’s response represents the highest level of force authorized under these General Orders based on the subject’s conduct; however, other force options outlined in this policy, including lower force options if appropriate, should be considered to help deescalate the situation. This visualization provides a general guideline for officers to determine an appropriate response to a person’s resistance or aggression; it is not a set pathway. Each situation will require a different level of response based on a subject’s resistance or aggressive behavior. The subject’s actions will dictate the level of force that is objectively reasonable under the circumstances. These encounters are dynamic and fluid and require an officer to continually assess a subject’s actions to ensure that their response is objectively reasonable.



***POLICY #100-01 SECTION V***  
***PEPPERBALL***  
***LAUNCHING SYSTEM***

**I. PURPOSE**

The purpose of this policy is to provide officers with guidelines for the use of the PepperBall system and its training, pursuant to the execution of their official duties.

**II. SCOPE**

This policy applies to all sworn personnel of this agency engaged in the discharge of official duties.

**III. POLICY**

Use of White Bear Lake Police Department-issued PepperBall is considered less lethal force. The White Bear Lake Police Department issued PepperBall brand is the only authorized kinetic impact with OC delivery system for White Bear Lake Police Department on-duty officers.

**Definitions:**

- A)** PepperBall - a less lethal delivery system that uses high-pressure compressed air to deliver PAVA OC powder projectiles from a safe distance
  
- B)** Projectile - any less lethal ammunition able to be fired from a PepperBall weapon, including “Live-X” PAVA OC rounds (projectile) and or inert baby powder filled rounds, or combinations thereof
  
- C)** Compressed Air – CO2 propellant used to propel projectiles to their intended target

## **Deployment:**

- D)** PepperBall will only be deployed by sworn officers of the White Bear Lake Police Department who are trained in its use according to standing orders/policy, and manufacturer recommendations.
- E)** Display only of a PepperBall launcher is classified as low-level force ranging from a response in the “active resistance” category and beyond.
- F)** Prior to firing the launcher, when feasible and practical, an officer shall inform all officers at scene and over the radio that PepperBall launchers are on scene and ready for deployment.
- G)** Less lethal PepperBall projectiles should be delivered to the subject target areas based on the circumstances involved in the incident. The threat level of the suspect, the proximity of officers to the subject, the position of the subject related to the availability of potential target areas, the physical layout of the incident scene, and officer safety issues present are all factors to consider when selecting a target area.
- H)** PepperBall projectiles are a less lethal intermediary weapon when deployed to target areas of the subject’s body that are considered less likely to cause death or serious physical injury
- I)** Target areas that have a minimum implication of subject injury are the large muscle groups of the arms and legs, as well as the buttock area. Other non-deadly force target areas having an increased implication of subject injury are the front torso of the body, from below the sternum to the waistline, and the back torso of the body, from the shoulder blade area, ending above the kidney area
- J)** The deployment of PepperBall in a manner intended to impact areas designated as deadly force areas (head, neck, spine) for the purposes of less lethal weapons is only authorized if deadly force would be authorized under the totality of the circumstances and the department’s policy.
- K)** PepperBall can also be used at incidents as “area saturation” for controlling individuals, groups, crowds, and in civil unrest situations. Both direct impact target areas and indirect impact may be required. Indirect impact means

projectiles will be launched to impact surrounding objects like walls, the ground, automobiles, trees, etc., which are not launched directly at a suspect. Prior to firing the launcher, an officer must give verbal warning, if feasible, to the subject(s).

- L)** All subjects who are struck by a PepperBall projectile shall receive appropriate medical treatment if needed by officers on scene or emergency medical personnel, with consideration to be transported to the hospital for examination if necessary or requested. Photographs of the injuries will be taken whenever possible. A medical release form is to be completed and the names of medical staff will be collected for the report, if possible.
  
- M)** A Use of Force report will be completed in any instances where PepperBall is deployed.
  
- N)** Officers are not authorized to draw or display the PepperBall launcher except for training and inspection unless the circumstances create a reasonable belief that use of PepperBall may be necessary.
  
- O)** Use of **direct-impact** PepperBall is prohibited:
  - (i) When the subject is in a position where a fall may result in serious bodily harm or death;
  - (ii) Punitively for purposes of coercion;
  - (iii) When a subject is cooperative or displays solely Passive Resistance (e.g. standing stationary and not moving upon lawful direction falling limply, refusing to use their own power to move).
  
- P)** PepperBall should not be used in the following circumstances unless there are compelling reasons to do so that can be clearly articulated:
  - (i) When the subject is in handcuffs or authorized restraints;
  - (ii) When the subject is in control of a **moving** motor vehicle;
  - (iii) When the subject is holding a firearm or deadly force is justifiable needed, unless additional officer(s) are present to provide lethal cover to the officer and others present.
  
- Q)** Each and every direct deployment of PepperBall OC projectiles must be objectively reasonable, and is considered a use of force action. *Graham v. Connor*, 490 U.S. 386 (1989)
  
- R)** Each PepperBall deployment requires an on-going assessment of:
  - (i) Responder safety;
  - (ii) Subject(s) compliance;



- (iii) Chemical agent effectiveness;
- (iv) The need to transition to another force level, tool or tactic
- (v) If reapplication of PepperBall (s) is indicated, an alternate impact location should be considered.

- S) The PepperBall system may be used to effectively to control animals with kinetic impacts and pepper projectiles when necessary.
- T). Careful consideration shall be taken when using Pepperball use on known juveniles, visibly frail persons, women who are known to be pregnant, and people with known heart problems. Direct deployment should only be used on such persons to prevent death or great bodily harm to themselves or others.

**Storage:**

- U). PepperBall launchers have several delicate parts (o-rings) that can wear out easily if the system is not cared for properly.

The following steps should be followed in the order listed to maintain the life of the launcher:

- a. Safety on.
  - b. Turn pressure off.
  - c. Remove magazine from the stock (if applicable).
  - d. Remove the projectile from the chamber.
- V). PepperBall launchers will only be stored in designated locations within designated squad cars and the armory. Only trained PepperBall armorers are allowed to lubricate and clean the PepperBall machines

Julie Swanson

**Julie Swanson  
Chief of Police**

Revised: 12/29/2021