

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 (Minn. Stat. § 626.8452).

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

Annual Training - Annual in-service training provided by the department to all department peace officers.

Approved Weapons - Tools meeting department specifications for which officers receive proficiency and safety training. Prior to the use of any approved weapon, the officer, when practical, will communicate to the resisting or aggressive person that the use of the weapon is imminent, and clearly and audibly announce the same to all personnel in the immediate area, unless circumstances prevent this from occurring.

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.

Bodily harm - Physical pain or injury.

Chemical Aerosol - A non-lethal agent that causes temporary inflammation of the skin, eyes and mucus membranes.

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.

Deadly force - Defined by Minnesota Statute 609.066 Subd. 1: 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 in the direction of another person, or at a vehicle in which another person is believed to be, constitutes deadly force).

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De-escalation - Officer response to stabilize an encounter so that more time, options, and resources are available for incident resolution, in order to reduce the immediacy of a threat, gain cooperation when feasible, and to lower the likelihood of the use of force.

Electronic Control Device (ECD/TASER) - The ECD is a Neuro-Muscular Incapacitation (NMI) device that stimulates the motor neurons to cause temporary motor skill dysfunction.

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

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

Force Transitions - The movement, including escalation and de-escalation, from the application of one type of response to resistance or aggression to another. Officers must consider the facts and circumstance known or believed at the time of their action to reasonably respond to an individual's resistance or aggression.

Great bodily harm - Defined by Minnesota Statute 609.02 Subd. 8: 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, organ or other serious bodily harm

Hard Empty-Hand Tactic - Weaponless techniques that include strikes, knees, kicks, and takedowns; and which are considered intermediate force options that have a potential to cause injury or substantial pain.

Imminent Threat - Refers to an impending violent act or active resistance that an officer reasonably believes will occur, based on the totality of the circumstances.. Note that imminent does not mean immediate or instantaneous.

Impact Weapon - An instrumentality used to apply physical force to another person.

Intermediate Force - A level of force that has the potential to cause injury or substantial pain, and is greater than low-level force.

Levels of Control - Levels of Control are broad categories of influence and/or force in identifiable, escalating stages of intensity. They are identified as low-level force, intermediate force, and deadly force.

Low-Level Force - Is a level of force control that is neither likely nor intended to cause injury.

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.

Reasonable Belief - The facts or circumstances known or which should reasonably be known to an officer at the time of a decision, which would cause an ordinary and prudent officer to act or think in a similar way under like circumstances.

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Response to Resistance or Aggression (RRA) - An officer's response to an individual's resistance to an officer's performance of duties, or aggression or threat of aggression against and officer or another person.

Soft Empty-Hand Tactic - Weaponless techniques that include escort holds, controlled handcuffing, and takedowns; and which are considered low-level force options that are neither likely nor intended to cause injury.

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

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

300.2.1 DUTY TO INTERCEDE AND REPORT

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

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

300.2.2 ADDITIONAL REQUIREMENTS

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

300.2.3 PERSPECTIVE

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

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

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

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

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

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

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

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

- a. Officers shall use de-escalation techniques and other alternatives to higher levels of force consistent with their training whenever possible and appropriate before using force to respond to resistance or aggression and to reduce the need for force, when safe to do so. At times an officer must exercise control of a violent or resisting person to make an arrest, or to protect the officer, other officers, or members of the community from the risk of imminent harm. Not every potential violent confrontation can be de-escalated, but officers may have the ability to impact the direction and the outcome of many situations they handle based on their decision-making and the tactics they choose to employ.
- 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.
- c. When reasonable under the totality of the circumstances, officers should gather information about the incident, assess the risks, assemble resources, attempt to slow momentum, and communicate and coordinate a response. Officers should use advisement's, warnings, verbal de-escalation, and other tactics and alternatives to higher levels of forces when reasonable. Officers should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of force options. Officers should perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions.

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300.3.2 USE OF FORCE TO EFFECT AN ARREST

Before using force, officers will, when possible, announce their presence, provide lawful orders, and give individuals an opportunity to respond whenever safe and reasonable under the circumstances.

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.

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- a. Immediacy and severity of the threat to officers or others.
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c. Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- d. The effects of suspected drug or alcohol use.
- e. The individual's mental state or capacity.
- f. The individual's ability to understand and comply with officer commands.
- g. Proximity of weapons or dangerous improvised devices.
- h. The degree to which the individual has been effectively restrained and his/her ability to resist despite being restrained.
- i. The availability of other reasonable and feasible options and their possible effectiveness (Minn. Stat. § 626.8452).
- j. Seriousness of the suspected offense or reason for contact with the individual.
- k. Training and experience of the officer.
- l. Potential for injury to officers, suspects, and others.
- m. Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- n. The risk and reasonably foreseeable consequences of escape.

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- o. The apparent need for immediate control of the individual or a prompt resolution of the situation.
- p. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- q. Prior contacts with the individual or awareness of any propensity for violence.
- r. Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

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

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

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

300.3.5 CAROTID CONTROL HOLD

A carotid control hold is a technique designed to control an individual by applying pressure to a person's neck on either side of the windpipe, but not to the windpipe itself, to stop the flow of blood to the brain via the carotid arteries (Minn. Stat. § 609.06, Subd. 3). The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is limited to those circumstances where deadly force is authorized and is subject to the following (Minn. Stat. § 609.06; Minn. Stat. § 609.066):

- a. At all times during the application of the carotid control hold, the response of the individual should be monitored. The carotid control hold should be discontinued when circumstances indicate that the application no longer reasonably appears necessary.
- b. Any individual who has had the carotid control hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel and should be monitored until such examination occurs.
- c. The officer shall inform any person receiving custody, or any person placed in a position of providing care, that the individual has been subjected to the carotid control hold and whether the individual lost consciousness as a result.
- d. Any officer attempting or applying the carotid control hold shall promptly notify a supervisor of the use or attempted use of such hold.
- e. The use or attempted use of the carotid control hold shall be thoroughly documented by the officer in any related reports.

300.3.6 STATE RESTRICTIONS ON THE USE OF OTHER RESTRAINTS

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

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

300.3.7 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 Hermantown Police Department for this specific purpose.

300.4 DEADLY FORCE APPLICATIONS

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

Use of deadly force is justified only if an objectively reasonable officer would believe, based on the totality of the circumstances known to the officer at the time and without the benefit of hindsight, that such force is necessary (Minn. Stat. § 609.066):

- a. To protect the officer or another from death or great bodily harm.
- b. To effect the arrest or capture, or prevent the escape, of an individual whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony and the officer reasonably believes that the person will cause death or great bodily harm to another person unless immediately apprehended.

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

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

However, an officer shall not use deadly force against a person whose actions are a threat solely to themselves or property unless the person poses an imminent danger of death or serious physical injury to the officer or others in close proximity (Minn. Stat. § 609.066).

300.4.1 MOVING VEHICLES

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Shots fired at or from a moving vehicle are rarely effective and involve considerations and risks in addition to the justification for the use of deadly force.

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

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

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

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.

A Use of Force/Weapons Report must also be completed and forwarded to the Deputy Chief of Patrol by the end of the officer's shift, unless the officer is incapacitated or the use of force results in the death or great bodily harm of another. The use of force requiring reporting is as follows:

- a. When a firearm is pointed at a person or discharged outside of the firing range except to dispatch an injured animal.
- b. When a use of force results in, or is alleged to have resulted, death or injury.
- c. When chemical aerosol is pointed at a person or used.
- d. When a conducted energy weapon (Taser) is pointed at a person or discharged.
- e. When a take down is used.
- f. When hard empty hand control is used (punches, kicks and strikes).
- g. When a baton is displayed for use or used to strike at a person.
- h. When K9 is deployed as a use of force tool.

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. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATIONS TO SUPERVISORS

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

- a. The application caused a visible injury.

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

300.5.2 STATE REPORTING REQUIREMENTS

The Director of Public Safety shall provide for the filing of a report with the Bureau of Criminal Apprehension (BCA) on a monthly basis and in the form required by BCA (Minn. Stat. § 626.5534).

There may be additional reporting requirements regarding misconduct (see the Standards of Conduct Policy) (Minn. Stat. § 626.8457).

300.6 MEDICAL CONSIDERATIONS

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

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

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

Individuals who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain, 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.

See the Medical Aid and Response Policy for additional guidelines.

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300.6.1 DUTY TO RENDER AID

When an officer uses force on a person that results in a known or reasonably believed serious or life-threatening injury, officers who are in a position to do so safely must immediately begin rendering comfort and aid to the extent of their ability to the injured person while waiting for medics to arrive.

300.6.2 MANDATORY MEDICAL RESPONSE

Emergency medical responders shall be called when officers use any of the following responses to resistance or aggression, regardless of whether there is a visible injury or a complaint of injury:

- a. Baton/Impact Tools – All Strikes
- b. Approved Chemical Aerosol – If the individual shows signs/symptoms of an adverse reaction
- c. ECD (TASER) – Probe impact to a person's head, neck or groin area
- d. Canine – Any suspected injury resulting from physical contact between a canine and a person
- e. Any suspected injury caused by a department vehicle
- f. Firearms

The preferred method of transportation for medical evaluation or treatment is by emergency medical services. However, this policy does not prohibit an officer from transporting an individual if it increases the likelihood of survival based on the nature of the injury, estimated time for medical personnel to respond, and proximity of the medical facility.

300.7 SUPERVISOR RESPONSIBILITIES

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

- a. Obtain the basic facts from the involved officers. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- b. Ensure that any injured parties are examined and treated.
- c. When possible, separately obtain a recorded interview with the individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived his/her *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 1. These photographs should be retained until all potential for civil litigation has expired.
- e. Identify any witnesses not already included in related reports.
- f. Review and approve all related reports.

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- g. Determine if there is any indication that the individual may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- h. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy noncompliance or if for any reason further investigation may be appropriate.

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

300.7.1 SERGEANT RESPONSIBILITY

The 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 INCIDENT REVIEW

The Hermantown Police Department will review all uses of force resulting in injury, involves the use of any control device or technique, or any other incident the department determines should be reviewed. The Director of Public Safety the authorized designee shall develop, implement and oversee the review process.

300.9 TRAINING

Officers shall receive training on this policy, including the learning objectives as provided by the Board of Peace Officer Standards and Training (POST), and demonstrate their knowledge and understanding at least annually (Minn. Stat. § 626.8452, Subd. 3).

Subject to available resources, officers should receive periodic training on guidelines regarding vulnerable populations, including but not limited to children, elderly, pregnant persons, and individuals with physical, mental, or intellectual disabilities.

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

300.9.1 TRAINING REQUIREMENTS

Required annual training shall include:

- a. Legal updates.
- b. De-escalation tactics, including alternatives to force.
- c. The duty to intercede.
- d. The duty to request and/or render medical aid.
- e. Warning shots (see the Firearms Policy).
- f. All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).

300.9.2 STATE-SPECIFIC TRAINING REQUIREMENTS

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

300.10 USE OF FORCE ANALYSIS

At least annually, the Patrol Deputy Chief 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:

- 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.

300.11 POLICY REVIEW

The Director of Public Safety or the authorized designee should annually review and update this policy to reflect developing practices and procedures.

All officers must review and receive yearly instruction on this order.