

STAPLES POLICE DEPARTMENT

POLICY #214 - 1

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**EFFECTIVE DATE:** APRIL 15, 1992  
**SUBJECT:** USE OF DEADLY FORCE  
**TO:** ALL PERSONNEL  
**FROM:** CHIEF KYLE F. HUBER  
**NO. OF PAGES:** 6

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**PURPOSE**

The value of human life is immeasurable in our society. Police officers have been given the responsibility to protect life, property, and apprehend criminal offenders. The officers responsibility to protect life, including his/her own, must always take priority over the protection of property. This policy is designed to insure that the use of deadly force by an employee will be necessary, lawful, and used only as a last resort. All Department personnel will be supplied a copy of this policy and will receive sufficient training in the areas covered in this policy to ensure that this policy is clearly understood.

**METHOD**

**I. DEADLY FORCE**

A. DEFINITIONS

Deadly Force: Force which the actor uses with the purpose of causing or which the actor should reasonably know creates a substantial risk or 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.

Reasonable Belief: When facts or circumstances the officer believes, knows, or should know, are such as to cause an ordinary and prudent person to act or think in a similar manner under similar circumstances.

Great Bodily Harm: Bodily injury which rates a high probability of death, or which causes a 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.

B. USE OF DEADLY FORCE

Use of deadly force by a peace officer in the line of duty is justified only when necessary:

1. To protect the officer or another from apparent death or great bodily harm.
2. To effect the arrest or capture, or prevent the escape of a person

whom the officer knows or has reasonable grounds to believe has committed or attempted to commit a felony if the officer reasonably believes that the person will cause death or great bodily harm if the person's apprehension is delayed. (**NOTE:** A fleeing felon should not be presumed to pose an immediate threat to life in absence of actions that would lead one to reasonably believe this is the case, such as previously demonstrated threat to or wanton disregard for human life.)

3. If practical, a verbal warning will be given prior to the use of deadly force.

**C. CONDITIONS OF DISCHARGE**

An officer may discharge a firearm under the following conditions:

1. As a justified use of deadly force as set forth in this policy.
2. To exterminate dangerous animal for self-defense, to prevent substantial harm to the officer or others, and when the animal is so badly injured that humanity requires its destruction to prevent further suffering.
3. For target practice at an approved range when accompanied by another competent person or shooting competition on an approved range and under the supervision of an approved firearms instructor or range officer.
4. Discharging a firearm at a vehicle which is believed to have one or more persons in or on it, is considered use of Deadly Force.

**D. PROHIBITED USE OF FIREARMS**

Firearms shall not be discharged in the following situations:

1. As a warning
2. In a known misdemeanor case
3. From a moving vehicle, aircraft, snowmobile, or any other vehicle except in the immediate defense of life.

**E. SAFE HANDLING OF FIREARMS**

Except for general maintenance, storage, or authorized training, officers shall not draw or exhibit their department approved firearm unless circumstances create reasonable cause to believe that it may be necessary to lawfully use the weapon in conformance with other sections of this policy. This section applies to all officers, whether on-duty or off-duty.

## F. OFF-DUTY WEAPON

Officers are not required to carry a handgun off-duty. An officer who elects not to carry a handgun while off-duty shall not be subject to disciplinary action if an occasion should arise in which the officer could have taken police action, if he/she were armed.

**II. DEPARTMENT INVESTIGATIVE PROCESS**

Any time an officer discharges a weapon, it is a serious incident and it will be fully investigated by the department. Accurate discovery of all facts regarding the incident is required to maintain the confidence of the public, insure the preservation of the rights of everyone involved including the officers involved and to insure that proper legal action, if necessary, is taken as a result of the incident.

The department will investigate every incident of firearms discharged by a department employee except for target practice, hunting, ballistics examination, and destruction of animals. If a firearm is used to destroy an animal, the officer will prepare an Incident Report detailing the reason and circumstances of the destruction.

## A. Officer Involved

Whenever a member discharges a firearm, whether accidentally or intentionally, the employee shall immediately: (Does not include destruction of animals.)

1. Notify the Chief of Police or a duty supervisor of your location and the nature of the incident, if possible.
2. Determine the physical condition of any injured persons and render first aid, when appropriate. Request medical aid, if necessary.
3. The involved officer(s) will remain at the scene (unless injured) and secure all weapons. Those weapons along with any other physical evidence will be turned over to the appropriate investigator as warranted.
4. As directed, the officer(s) will return to the station and complete a detailed Supplementary Investigation Report of the incident.
5. The officer(s) involved in the incident may be reassigned to administrative duties.

## B. Assisting Officer(s)

The Assisting Officer(s) will be responsible for:

1. Securing the scene and any physical evidence.

2. Determine manpower needs to handle patrol functions during the investigation of the incident.
3. Insure that the Chief, and, if necessary, the BCA, is notified.
4. Render assistance to the assigned investigators.
5. Assist the officer involved to insure the completion and thoroughness of all reports and assist the officer through the early stages of post-shooting trauma.
6. The Chief and the involved officer, in compliance with M.S. 626.553 will prepare the required Firearms Discharge Report. The report will be forwarded to the Commissioner of Public Safety

**C. Internal Affairs Investigation**

The Chief is responsible for the Internal Affairs Investigation of the incident or to appoint an officer to conduct the investigation. This administrative investigation will be conducted to determine:

1. Whether the shooting was within policy
2. Evaluate future training consideration
3. Make a written recommendation concerning the incident. The recommendation could range from complete exoneration of the officer to dismissal.

The administrative investigation will be conducted separately from any criminal or federal investigation. Before taking any statements, the Internal Affairs Officer will advise the employee of his/her rights during an administrative investigation. These rights include:

1. The right to know that the investigation is narrowly defined to the specific shooting incident.
2. The right to know that if misconduct is determined that the officer could face disciplinary action, including dismissal.
3. The right to have a Union Representative and/or private attorney present while the statement is being taken.
4. The officer will be read the Garrity/Tennessee Warning and will be allowed to ask questions to ensure that he/she understands the Warning. Once the officer understands the Warning, he/she will sign the Warning and will be supplied a copy of the signed Warning.
5. That any statements made during the internal investigation interview can not be used against the employee in any subsequent criminal proceedings.
6. A copy of the employee's statement shall be provided to the

employee upon signing the statement in receipt of copy.

D. Criminal Investigation

A shooting/deadly force incident that results in death must be investigated by the County Sheriff's Office Criminal Investigation Division or the BCA. All other shooting/deadly force incidents will be investigated by the Staples Police Department or another law enforcement agency at the direction of the Chief of Police. In all cases, the criminal investigation should be conducted totally separate from the Internal Affairs investigation. If a conflict arises between the two investigations, the criminal investigation will receive first priority. The investigation procedure shall include, but is not limited, to:

1. Respond to the scene
2. Take custody of all weapons, spent and live ammunition, for analysis
3. Separate, secure and interview all on-scene witnesses
4. Photographs and diagram to scale the crime scene
5. Secure the tapes of all radio transmissions
6. Secure medical evidence including any projectiles from the individual(s) injured, blood, and urine samples from those involved in the incident
7. Interview all officers involved in the incident. If applicable, they will be advised of their rights before questioning.
8. A complete report will be forwarded to the Chief of Police and the County Attorney for review.

E. The Department will respect the rights of the Federal Government to conduct an independent investigation to identify any civil rights violations. However, the Department will not order or request any of its members who may be suspects to confer with Federal investigators without the advise of counsel. If the Department's investigation determines that the shooting is within the scope of this policy, the Department will supply legal representation for all Officers involved.

F. Administrative Duty/Leave

After a deadly force incident, the involved officer(s) will be placed on either administrative duty or leave. This shall be without loss of pay or benefit and shall not be interpreted, implied, or indicate that the officer(s) acted improperly.

The Department recognizes the possible impact that post-shooting trauma has on officer(s) involved in a shooting incident. During administrative

duty/leave, the officer(s) will be provided with all the resources necessary for physical and emotional recovery from the incident. While on administrative duty/leave, the officer(s) will:

1. Remain available at all times for official interviews.
2. Discuss the incident only with assigned department personnel, personal attorney, medical personnel, clergy, and the officer's immediate family.
3. Actively participate in his/her emotional and medical recovery by following the course of treatment developed by health professionals.

The Chief of Police will determine when the officer(s) will be reassigned to their previous duty. This will be done only after consulting with the officer(s) and the officer(s)' health care professionals.

Follow-up psychological counseling will be made available to the officer(s) and family members.

**Note:** While the use of firearms is the most common means by which deadly force is applied, any deadly force incident will be investigated in the manner set forth in this policy.

**111. TRAINING**

All sworn employees will be issued a copy of this policy and will receive instruction in the Deadly Force policy prior to being authorized to carry any firearm in the course of employment with the Staples Police Department. All sworn employees will receive annual re-training in the use of deadly force, including the Deadly Force policy of this Department.

This policy is to be used in conjunction with all relevant existing departmental policies, procedures, rules and regulations.