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<td>USE OF LESS LETHAL FORCE</td>
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<td>Eugene R. Ferrara</td>
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<td>Capt. J. Corcoran</td>
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I. Purpose

The value of human life is immeasurable in our society. Police officers have been delegated the awesome responsibility to protect life and property as well as apprehend criminal offenders. The apprehension of criminal offenders and the protection of property must at all times be subservient to the protection of life. The officer’s responsibility for protecting life must include his or her own.

Information

This directive is for departmental use only and does not apply in any criminal or civil proceeding. The department policy should not be construed as a creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting. Force is that violence, compulsion, or constraint physically exerted by any means upon or against a person which has a risk of physical harm to that person.

“Less Lethal Force” as used in this procedure is defined as that force which is LESS than force that is intended or likely to cause death or grave injury, but may create some degree of bodily injury, including a chance of serious or fatal injury.

This policy complements the Firearms and Deadly Force policy, and should be reviewed in conjunction with that policy.

The Use of Less Lethal Force

A. The force used will be the minimum necessary to stop the suspect’s hostile behavior and establish the ability to control and direct them. Less lethal force may be used by officers, who have completed the designated training programs, when:

1. The violator possess the capacity to resist the officer or a third party, or cause the officer or a third party bodily harm, and;
2. The violator has the opportunity to resist the officer or a third party, or to cause the officer or a third party bodily harm, and;

3. The violator places the officer or a third party in jeopardy. Jeopardy can be defined as a danger, hazard, or a peril.

B. Only the force reasonable and necessary under the circumstances should be used to effect an arrest, or in self-defense. This does not mean matching the suspect’s force evenly; for instance, trading fist blows. Rather, the officer shall use the minimum force needed to halt the assault, or control the suspect, and prevent the incident from escalating to where higher levels of force, including lethal force, may be required. Using either too little, or too much force results in unnecessary injuries on the part of both the officer and the suspect. Force will not be used by an officer to punish a suspect.

C. When determining what type and the amount of force to use in given situation, officers will consider:

1. The weapons being used (this includes fists, feet, etc).

2. Suspect's delivery system (how far away can suspect deliver violence).

3. Ability: The officer’s and the suspect's (age, weight, size, strength and skill).

4. Previous history of the suspect (i.e. assault).

5. Ability to escalate or de-escalate (access to weapons, including the officer’s).

6. Physical position (does the officer have an escape route, are they able to use it?).

7. Surrounding environment (other hostile individuals, physical environment, bystanders). These factors, along with any other special circumstances, must guide the officer in choosing an appropriate tactic. Officers will base their use of force upon the totality of the circumstances.

(3) 1.3.400
Deadly Assault
- Weapons Used Against Officer
- Attempting to Take Officer's Weapon
- Life Threatening Weaponless Assault

Deadly Force
- Firearms
- Baton
- Empty Hand

Actively Fighting Officer
- Striking
- Kicking

Temporary Incapacitation
- Empty hand strikes, kicks
- Pepperball
- Taser
- Baton

Resisting Officer
- Wrestling With Officer
- Pulling Away

Physical Control
- Empty Hand pressure points, joint manipulation
- OC irritant spray
- Taser
- Baton

Uncooperative
- Refusing to comply with commands

Restraint Techniques
- Verbal Commands
- Empty Hand Escort Hold
- Balance Displacement

Undecided
- Suspect Not Decided On Action

Verbal Commands
- Officer Presence
- Advice
- Warning
- Order

Suspect's Actions

Officer's Responses

Important: The list of officer responses is not intended to be in any specific order. The officer will choose the necessary response to gain control of the situation based on policy, his physical capabilities, the suspect's capabilities, and any special circumstances.

(4) 1.3.400
Authorized Less Lethal Force Devices/Weapons

A. The authorized less lethal force control devices, which can be carried and used by the officers are: O/C chemical spray, handcuffs, and flex-cuffs, shield ERD, Kubotan, collapsible baton, Taser and the Pepper ball gun.

B. Any item not specifically approved by the department for an officer to carry and use as a less lethal weapon is not allowed. This includes, but is not limited to, blackjacks, brass knuckles and knives carried for use as a weapon. Officers may carry a knife intended for use as a tool.

(CALEA 1.3.12)

C. Officers will carry and use only those less lethal force weapons for which they have received the appropriate training, which have been approved by the department, and are issued or approved for their specific assignment.

(CALEA 1.37)

D. An officer may use an item of equipment that is not carried as a less lethal weapon in a defensive mode in an emergency. For example, an officer suddenly assaulted while holding a flashlight or a radio may use it to defend themselves.

E. Officers who use less lethal weapons shall ensure that any necessary medical treatment is obtained for the person(s) upon whom the weapon was used as soon as practically possible.

(CALEA 1.3.7)
Use Of Less Lethal Force Devices/Weapons

A. USE OF CHEMICAL IRRITANT (OC Spray)

1. Chemical irritant offers a less-lethal alternative for controlling, subduing, or apprehending a suspect(s). Patrol officers in uniform will carry their issued canister of OC spray. Plainclothes officers should carry their issued canister of OC spray whenever their working attire permits.

2. If necessary, an officer may use the division issued chemical irritant as a crowd control device in self-defense situations, or to disperse a disorderly crowd.

3. When spraying chemical irritant, if possible spray five to ten feet from an individual. The target should be the individual's face. Chemical irritant is generally not an incapacitating weapon, and officers should use it in situations where distraction or diversion of a suspect's action or attention is the desired goal.

4. Expose individuals sprayed with chemical irritant to fresh air. Give them an opportunity to rinse their face with plenty of clear, cool water. Individuals should not rub or hold their faces, or use any oils, creams or ointments. Medical assessment/response should be obtained as necessary.

5. Use of chemical irritant should be avoided where the suspect is known to have respiratory disease, or where others who may have limited respiratory capacity are present.

B. USE OF ELECTRONIC CONTROL DEVICES (Shield)

Electronic control defense weapons are designed to subdue violent individuals where conventional control tactics are reasonably likely to fail or where the risk of injury to the individual, citizens, or officer(s) using conventional control tactics is high. A short burst of electrical energy immobilizes an individual by reacting with the neuromuscular system. Use of these weapons has proven an effective means of control causing minimal or no harm to the individual while protecting officers from physical assault. The electronic control weapons have been approved for use in those situations where lethal force maybe inappropriate, but where aggressive behavior needs to be curtailed.

(CALEA 1.3.1, 1.3.7)

(6) 1.3.400
II. Procedure

1. Inspection

   a. The ECD Shield will be stored in the designated location(s).

   b. The units will be thoroughly inspected by the appropriate beat officer at the beginning of each shift to ensure that they are properly charged and in good working order.

2. Applying the Device

   a. Use of the electronic control device is limited to those officers who have completed the approved training.

   b. Display of the unit and a warning of its possible use may be done when actual use of the unit would be appropriate.

   c. When tactically permissible, the unit should be used on the subject’s upper torso. Under normal circumstances, it should never be used on the head or neck.

   d. After the unit has been applied to the torso, a four to five second burst should be applied to immobilize the subject. The unit will be held firmly against the subject’s torso throughout the burst in order to minimize the risk of contact burns.

   e. The ECD shield is NOT to be used as a “prod”.

   f. Upon immobilization, officers should assist the subject in a takedown to a prone position.

   g. DO NOT use around flammable gasses (i.e. propane, butane, etc.)

3. Medical Assistance

   a. Once the subject has been brought under control, the officer shall immediately check the subject for injuries and apply first aid, if required. If any injuries have been sustained, the subject will be treated by medical personnel.
C. USE OF CONDUCTED ENERGY WEAPON (CEW) (TASER)

The CEW (Taser) is designed to temporarily immobilize a violent or potentially violent suspect where conventional control tactics are reasonably likely to fail or where the risk of injury to the suspect, citizens, or officer(s) using conventional control tactics is high. A short burst of electrical energy immobilizes an individual by reacting with the neuromuscular system. Use of these weapons has proven an effective means of control causing minimal harm to the suspect while protecting officers from physical assault. Only officers successfully completing the department CEW-training program will use the CEW.

1. Issue and care of the CEW

   a. CEWs will be carried on the duty belt by officers assigned the units. The CEW will be carried in the issued holster on the opposite side of the duty belt from the officer’s firearm. The officer assigned a CEW will record on their daily log sheet the unit number. Other specific vehicles may be assigned a unit for that vehicle, such as an investigator’s car.

   b. Do not store CEW cartridges at temperatures above 150 degrees Fahrenheit. Extreme temperatures can cause defects in the cartridges. Police officers will remove the CEW and cartridges from police vehicles not in use when temperatures could exceed the recommended storing temperatures.

   c. All CEWs will be maintained by officers in accordance with the departmental training program. Each CEW assigned to an officer should be spark-tested once during roll call at the beginning of each shift. A CEW assigned to a vehicle should be spark-tested weekly by the officer responsible for that vehicle.

   d. Each CEW will be subject to regular audit by the assigned supervisor to verify that each activation of the unit has been properly documented.

2. Using the CEW

   Use the CEW to control violent or potentially violent suspects under the following conditions:

   b. Attempts to subdue the subject by other tactics are inappropriate or may reasonably be expected to be ineffective.

(8) 1.3.400
c. There is reasonable expectation it will be unsafe for officers to approach within the contact range of the suspect (except where using the CEW in the contact mode).

d. Officers should, if possible, obtain sufficient backup before using the CEW to control the suspect.

e. Deploy personnel in such a manner that will enable them to use other appropriate means to subdue the subject if the CEW is ineffective.

f. The CEW should be deployed within 6’ to 15’ of the suspect for maximum effectiveness. At shorter ranges the probe spread may be insufficient, and at longer ranges it may be so wide as to cause one or both probes to miss.

g. Depressing the CEW trigger will propel two probes. The probes pull two fine conducting wires from a cartridge. It is necessary for both probes to hit some part of the suspect’s clothing or body for the CEW to be effective.

h. The preferred target is the back of the suspect, with the front torso the secondary preferred target. The head and neck should not be the target except in a lethal force situation.

i. The CEW may also be used in a contact mode where use of the cartridge is inadvisable. Use in a contact mode is less effective in causing a takedown, due to the lack of spread between the probes, and should be avoided when possible. Contact mode is most effective as a means of causing a suspect to release a hold or break contact, and then followed with other appropriate tactics. Using the CEW in contact mode for a takedown should only be done in exigent circumstances.

j. If the suspect is wearing heavy clothing, the CEW may not be effective.

k. If the first shot does not make contact or is ineffective, attempt a second shot.

l. If a second shot does not make contact or is ineffective, end CEW deployment and utilize an alternative tactic. The use of more than one CEW at the same time should be avoided whenever possible.

(9) 1.3.400
Due to the high voltage electronic spark of the CEW, never test or fire it near flammable vapors or liquids. The use of a CEW should be avoided on young children, pregnant females, and in other situations where serious injury may result from the suspect falling after application of the CEW.

m. Use of the CEW should be limited to the minimum number of cycles (5 second activations) needed to control an aggressive suspect. The officer should evaluate the suspect’s behavior after each cycle, and decide if an additional cycle is needed. Once the subject has been brought under control, the officer shall immediately check the subject for injuries and apply first aid, if required. If any injuries have been sustained, the subject will be treated at a health care facility. Officers must be aware of the potential for excited delirium, where a suspect may suddenly cease breathing following a violent struggle, particularly if the suspect is under the influence of drugs. After the application of a CEW, officers should closely monitor the suspect’s level of consciousness and breathing. Medical aid should be summoned immediately if the suspect loses consciousness or shows signs of difficulty breathing.

n. Display of the unit and a warning of its possible use may be done when actual use of the unit would be appropriate.

D. USE OF THE IRRITANT PROJECTILE (IP) (PEPPERBALL) SYSTEM

The Irritant Projectile launching (Pepper Ball) system is a less-lethal compliance weapon designed to give law enforcement officers an effective and simple-to-use alternative to existing compliance systems. It utilizes a combination of kinetic impact, psychological shock and Capsaicin II powder to irritate and gain compliance. It includes recoilless launchers that allow for accurate targeting and has a rapid rate of fire that allows for multiple target application. Maximum specific target range is 30 feet and a saturation of areas can be accomplished up to 150 feet.

1. Storage

   a. Each IP System case contains a launcher, air supply bottle, hopper, one container of water rounds and two containers of OC rounds.

   b. System is to be stored in designated locations, unloaded with no rounds in the hopper or gun.

(10) 1.3.400
c. The air supply to the launcher is to be disconnected while not in use (in the vehicle or in storage).

d. Officers assigned an IP system should check the system when first going on-duty as part of the overall daily inspection. Officers should check to see if the system has pressure and, if not, fill the bottle. Then verify the launcher is not loaded and check to see if the system can provide proper airflow.

2. Safety

a. Officers will handle the IP system in accordance with provided training.

b. The system is a weapon, and will be treated as such.

3. Field Use

a. Only officers trained in the IP System may utilize the system.

b. Deployment of System

1. The IP system may be used to control violent or potentially violent suspects under the following conditions:

   a. Attempts to subdue the subject by conventional tactics are inappropriate or may reasonably be expected to be ineffective.

   b. There is reasonable expectation it will be unsafe for officers to approach within the contact range of the suspect(s).

2. General usage guidelines:

   a. Never target a subject’s head, neck, groin, or spine unless deadly force is appropriate. The preferred target area is the suspect’s chest.

   b. Police officers should, if possible, obtain sufficient backup before using the IP system to control the suspect.

(11) 1.3.400
c. Deploy personnel in such a manner, which will enable them to use other appropriate means to subdue the subject, if the IP system is ineffective.

d. Evaluate target: environmental conditions (wind & temperature), suspect factors (clothing, weapons, demeanor, drug or alcohol use), and other factors (additional suspects, bystanders). Determine the appropriate projectile to use (OC vs. water).

e. Officers must use verbal commands to direct the subject.

f. It is not necessary to target individuals for crowd control applications. Area saturation can be applied using walls, ceilings, and floors to deliver the OC powder.

g. Officers should have another plan in case the subject does not comply after being administered with the IP System. If the subject is displaying a non-projectile deadly weapon (such as a knife), and the use of the IP system is still appropriate, a secondary officer should be present with deadly force if the IP System does not work.

4. Medical Care and Decontamination

a. Once the subject has been brought under control, the officer shall immediately check the subject for injuries and apply first aid, if required. If any injuries have been sustained, the subject will be treated at a health care facility.

b. Other decontamination efforts include fresh air and cool, clean water, reassurance to the subject that they are safe and keeping the subject calm. If area decontamination is necessary, the appropriate environmental service group will be contacted.

5. Maintenance

a. The department armorer will perform routine inspection and maintenance once every two months.

b. Refilling the air bottle. Protective glasses must be worn while refilling the air bottle. SCUBA tank will be stored in the squad room, secured by a safety bracket.

(12) 1.3.400
1. Do not fill the air bottle past 3000psi.

2. Connect the air bottle to the adapter attached to the SCUBA tank.

3. Make certain that the connection is stable.

4. Make certain that the air release valve of the adapter is tightened.

5. Fill the bottle slowly by turning the SCUBA tank’s black handle (up to 3000psi).

6. Tighten the handle of the SCUBA tank.

7. Loosen the pressure release valve and disconnect the air bottle.

8. Re-supply of OC and Water rounds to field units will be made by the shift supervisor. Rounds for field deployment will be located by the SCUBA tank.

D. USE OF EXPANDABLE BATON

1. The expandable baton offers a less-lethal alternative for controlling, subduing, or apprehending a suspect.

2. Patrol officers will carry the issued expandable baton on their duty belt when in uniform, including when working details. Plainclothes officers should carry the issued expandable baton whenever their working attire allows.

3. The baton will be used to strike the preferred target areas of the extremities and lower abdominal areas unless the officer is justified in using deadly force.

E. USE OF KUBOTAN

1. The Kubotan offers a less-lethal alternative for controlling, subduing, or apprehending a suspect.

2. The Kubotan will only be carried by officers who have received training in its use.

(13) 1.3.400
3. The Kubotan may be used to apply pressure to control points on the extremities, or to strike the extremities as instructed in the departmental training program.

F. USE OF HANDCUFFS

1. Handcuffs are to be used to restrain a subject being placed under arrest, or who is being detained under circumstances where the officer has reasonable suspicion that the suspect may be armed and/or assault.

2. Patrol officers will carry the issued handcuffs on their duty belt when in uniform, including when working details. Plainclothes officers should carry the issued handcuffs whenever their working attire allows.

3. Prisoners will be handcuffed with their hands behind their backs, and the handcuffs double locked. Exception – if a prisoner transport belt is being used, the prisoner may have their hands cuffed in front of them.

Reporting Use of Force

All uses of less than lethal force must be reported on a Use of Force form, with the following exceptions:

1. Simple empty hand restraint and control techniques where no injury is sustained. For example, utilizing an escort hold, or normal handcuffing techniques.

2. Use of less lethal tools in training or testing. Note that all activations of a CEW must be reported, other than the spark test performed during roll call.

A. Use of Force Report

   a. The officer using less than lethal force shall immediately notify their supervisor of the use of force.

   b. The officer using less than lethal force shall complete a departmental Use of Force report before leaving work, unless the officer is injured and unable to complete the report.

   c. The Use of Force report will be turned in to the officer’s supervisor.
B. Use of Force Investigation

a. The supervisor of the officer using less than lethal force shall conduct an initial investigation into the use of force and complete a departmental Use of Force Investigation Summary before leaving work.

b. Wherever possible, the supervisor will respond to the scene and conduct the investigation on location.

c. Wherever possible, the supervisor will interview witnesses and obtain written statements from witnesses.

d. When serious injury or death has occurred, the supervisor will notify the department administration through the Communication Center.

e. The Use of Force Investigation Summary will be turned in to the supervisor’s manager.