

## Less Lethal

### 384.1 POLICY

The Department is committed to reducing the potential for violent confrontations. Less lethal systems are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation. While the option to consider a less lethal system is available, nothing in this policy shall require any Member to deploy such an option when the Member reasonably believes, based on the totality of the circumstances, that the use of deadly force is necessary, in accordance with policy 300. This Policy identifies the types of less lethal systems authorized by the Department and requirements and guidelines for use.

#### 384.1.1 DEFINITIONS

**Kinetic energy projectile:** Any type of device designed as less lethal, to be launched from any device as a projectile that may cause bodily injury through the transfer of kinetic energy and blunt force trauma. The term includes but is not limited to items commonly referred to as rubber bullets, plastic bullets, beanbag rounds, and foam tipped plastic rounds (Penal Code § 13652).

**Chemical agents:** Any chemical that can rapidly produce sensory irritation or disabling physical effects in humans, which disappear within a short time following termination of exposure. The term includes, but is not limited to, chloroacetophenone tear gas, commonly known as CN tear gas; 2-chlorobenzalmalononitrile gas, commonly known as CS gas; and items commonly referred to as pepperballs, pepper spray, or oleoresin capsicum (Penal Code § 13652).

### 384.2 USER REQUIREMENTS

1. Only Members who have completed the course of instruction on the use of the Department's less lethal systems are authorized to carry or use them. Members who have been trained in the use of less lethal systems may deploy the device when the use of force complies with Department policies. The option to deploy a less lethal system shall be left to the discretion of the involved Members based upon the totality of the circumstances at that time.
2. The less lethal system may be used for the purpose of compelling an individual to cease his or her violent or potentially violent actions by using the less lethal munitions and kinetic energy projectile directly on the suspect.
3. An evaluation of the tactical situation shall be made by the Members on scene, taking into consideration available circumstances which may include but not limited to the following:
  - (a) The suspect's stated or exhibited intent to violently resist being taken into custody and the credibility of that threat as evaluated by the on scene Member(s).
  - (b) Additional information immediately available to the Member(s), such as knowledge of the subject's expertise in martial arts or other unarmed defensive tactics.

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- (c) The suspect is armed with a potentially deadly weapon such as a knife, club, nunchakus, etc.
  - (d) Indications of drug use or alcohol intoxication.
  - (e) The suspect's physical stature and clothing worn. For example, a subject who has a thin build and is not wearing a shirt presents a different set of conditions compared to an individual who is heavy-set and wearing a jacket.
  - (f) Due to their physical condition, use of less lethal munitions against minors, the elderly, and pregnant women (For inmates known to be pregnant, refer to section 384.2.3(g)) should be avoided unless there are unique circumstances present that would justify such deployment.
  - (g) In Custody and Court Operations, inmates known to be pregnant shall not be tased, pepper sprayed or exposed to other chemical weapons (Penal Code § 4023.8(h)). Correctional Health Services shall evaluate inmates for pregnancy upon intake and follow-up as needed. Inmates medically confirmed to be pregnant will be issued pink pants and are required to wear them while in custody. Deputies may rely on the inmate's clothing to determine whether an inmate is pregnant.
  - (h) Availability of other force options and their possible effectiveness and appropriateness.
  - (i) Indications that attempts to subdue the subject through the use of control holds or self-defense techniques would be ineffective.
  - (j) A reasonable expectation it will be more dangerous for the deputy(s) to approach to within physical contact distance of the subject.
  - (k) The subject's actions indicate the need for an immediate response, and the use of a less lethal system reasonably appears to be appropriate, especially if the only other option to deal with those actions may be the use of deadly force.
4. When practical and unless required by section 384.2.1, the Member should provide a verbal warning prior to the deployment of a less lethal system.

#### 384.2.1 CROWD CONTROL

- 1. Kinetic energy projectiles and chemical agents shall not be used to disperse any assembly. Protest, or demonstration and shall not be used solely due to a violation of an imposed curfew, verbal threat, or noncompliance with a law enforcement directive.
- 2. Kinetic energy projectiles and chemical agents shall only be deployed by Members that have received training on their proper use by POST for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the following requirements:
  - (a) De-escalation techniques or other alternatives to force have been attempted when objectively reasonable, and have failed.

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- (b) Repeated, audible announcements are made of the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- (c) Persons are given an objectively reasonable opportunity to disperse and leave the scene.
- (d) An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.
- (e) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- (f) Members shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.
- (g) An objectively reasonable effort has been made to extract individuals in distress.
- (h) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable to do so.
- (i) Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.

These requirements for the use of kinetic energy projectiles and chemical agents do not apply within any county detention facility (Penal Code § 13652).

### **384.3 PEPPERBALL LESS LETHAL SYSTEM**

Pepperball is a unique less lethal kinetic energy delivery system that uses high-pressure air launchers to deliver chemical agents and/or kinetic energy impact force from a distance.

#### **384.3.1 AUTHORIZED PEPPERBALL LAUNCHERS AND MUNITIONS**

An addendum of Department-approved authorized manufacturers shall be maintained by the Training Division Commander.

### **384.4 12 GAUGE LESS LETHAL SHOTGUN**

Shotguns specifically used to deploy less lethal munitions shall be identified by the receiver-mounted, orange sidesaddle ammunition holder for carrying less lethal munitions, and shall be equipped with a fore-end mounted flashlight and a sling. The stock shall be painted orange.

Less lethal should only be used in shotguns designated specifically for less lethal munitions.

#### **384.4.1 AUTHORIZED LESS LETHAL SHOTGUNS AND MUNITIONS**

An addendum of Department-approved authorized manufacturers shall be maintained by the Training Division Commander.

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### 384.4.2 AUTHORIZED LESS LETHAL SHOTGUN GAS LAUNCHERS (SWAT ONLY)

Shotguns specifically used to deploy Chemical Agents (CS gas) shall be identified by the receiver-mounted, Green sidesaddle ammunition holder for carrying CTS 12 ga. Launching Cartridges and shall be equipped with a fore-end mounted flashlight and a sling. The stock shall be painted Green.

These specific shotguns will have a CTS LC6 launching cup mounted to the end of the barrel, capable of launching CTS 5230B CS Baffled Canister Grenades.

### **384.5 40MM LAUNCHERS**

The 40mm launcher is a shoulder fired less lethal weapon which uses a propellant cartridge to launch kinetic energy impact munitions. The Department deploys single and multiple shot launchers. The projectiles are made from foam and soft rubber.

#### 384.5.1 AUTHORIZED 40MM LAUNCHERS, LAUNCHER ACCESSORIES, AND MUNITIONS

An addendum of Department-approved authorized manufacturers shall be maintained by the Training Division Commander.

#### 384.5.2 DEPLOYMENT CONSIDERATIONS

The use of specific types of 40mm munitions are based upon the Command (i.e., Patrol Operations, Custody and Courts, Mutual Aid Bureau) and incident driven. In general, the use of 40mm sting-ball round (i.e., skip round) and CS gas are restricted. Only a supervisor at the scene of an assembly, protest or demonstration may authorize the use of tear gas. For routine Patrol Operations, only the 40mm foam baton munition is authorized. For further deployment considerations and restrictions, refer to the Patrol Operations Manual (POM) and the Custody & Court Operations Manual (CCOM).

### **384.6 STING-BALL GRENADES**

The Sting-Ball Grenade is most widely used as a crowd management tool for Law Enforcement and Correctional Institutions. It's unique design, allows for effective deployments in both indoor and outdoor operations. Protective gloves and safety glasses should be worn when deploying. As with any pyrotechnic device, firefighting equipment should be available.

Authorization for the deployment of the Sting-Ball grenades will be given by a sergeant, Watch Commander, or higher authority in the chain of command. The supervisor shall review the situation and provide direction based upon his/her assessment.

#### 384.6.1 AUTHORIZED STING-BALL GRENADES

An addendum of Department-approved authorized manufacturers shall be maintained by the Training Division Commander.

### **384.7 MEDICAL TREATMENT**

Generally, lesslethal munitions should not be intentionally directed at a person's head, neck, or throat, unless imminent danger is present and lethal force would be justified. In the event a person is struck with a less lethal munitions projectile, once it is reasonable and safe to do so, Members shall promptly provide medical assistance, if properly trained. A Member shall then ensure the

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subject is treated and medically cleared by a physician, as soon as possible. The deploying officer shall document all medical treatment given to the subject.

The only exception would be when a subject flees the scene after deployment and an effort to locate him/her has been unsuccessful.

Any individual who refuses medical attention shall have his or her refusal fully documented in related reports and if possible be witnessed by another deputy/SSO and/or medical personnel. If medical staff is willing to provide a copy of the subject's medical refusal, this document should be collected and included with the report package. If possible, an audio recording of the refusal should also be made with a notation in the report indicating the subject's refusal was recorded and booked as evidence.

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### **384.7.1 DECONTAMINATION AND MEDICAL CARE INSIDE CUSTODY OPERATIONS**

1. When chemical agents have been used on an inmate, the decontamination process will begin as soon as practical.
  - (a) Members will collect contaminated clothing and issue clean replacement clothing.
  - (b) Correctional Health Services (CHS) shall be notified and will examine the inmate and assess their medical condition. CHS will determine if the inmate is cleared for housing or if further medical attention is necessary.
  - (c) The inmate will be allowed access to a shower, sink, or other clean water source where they can flush the contaminated areas of their body.

### **384.8 DOCUMENTATION OF LESS LETHAL MUNITIONS USE**

Discharge of a less lethal weapon for any reason other than an approved training exercise shall be documented and treated like any other use of force incident.

If a supervisor is not present, one shall be notified, as soon as practical that less lethal munitions have been deployed.

All relevant information concerning the use of less lethal munitions shall be documented in accordance with Policy 300.6. Post Use of Force Procedures.

All information shall be documented on a Department crime report, incident report, arrest, or follow-up report. The report should include the following:

1. Describe the circumstances that gave rise to the use of less lethal munitions.
2. Describe any de-escalation techniques, crisis intervention tactics, and other alternatives to force that were used in an attempt to persuade the subject to voluntarily comply.

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3. Explain ineffective use of force options employed and/or considered but believed to be impractical or ineffective.
4. Describe how many less lethal munitions projectiles were deployed, by which Member(s) and at what distances. Include how many projectiles struck the subject, on which areas of his/her body and the effect of the less lethal munitions.
5. Document any injuries or claims of injuries to citizens, Member(s) and/or the subject involved.
6. Describe medical treatment, including that given to the subject after the impact of the less lethal munitions, by the Fire Department/Paramedics and the hospital where the subject was transported. Identify the treating physician in your report.
7. Any witness statements.
8. Subject's statements.
9. Photographs, video and other physical evidence. Take photographs, even if there are no visible injuries. Note: photographs of subject/suspect's private areas; buttocks, breasts, and underwear, are only allowed per 4030 P.C. (dealing with strip searches), so only take photographs of exposed areas. Medical staff can rearrange clothing, conduct a visual check and make a notation in the subject's chart.

#### **384.9 SUPERVISOR RESPONSIBILITIES**

Refer to Policy 300.9 Use of Force – Supervisor Responsibility

#### **384.10 LESS LETHAL CERTIFICATION AND TRAINING**

1. Certification through the Training Division is required to deploy less lethal weapons.
2. Recertification through the Training Division is required during each two-year Perishable Skills training cycle, to deploy less lethal weapons.

#### **384.11 STORAGE AND TRANSPORTATION IN A DEPARTMENT-OWNED VEHICLE**

If the Department Member utilizes a sedan, the less lethal weapon shall be stored in a locked rack or kept in a container, case, or bag inside a locked trunk, inaccessible from the cabin. If the Department Member utilizes a SUV, truck, or other vehicle that does not have a trunk, the less lethal weapon shall be stored in either a locked rack or locked and secured in the rear cargo area, inaccessible from the cabin. Less lethal weapons stored in the rear cargo area shall be kept inside a container, case, or bag. Less lethal weapons stored on vessels shall be in a locked rack or locked inside an affixed container when left unattended.