

|   |   |                                    |
|---|---|------------------------------------|
|  | <b>ROSENBERG POLICE DEPARTMENT</b>  |                                    |
|   | <b>General Order 6.03 Non-Lethal and Less Lethal Weapons</b>                                  |                                    |
|   | <b>Effective Date: 04-22-2013</b>   | <b>Replaces: General Order 420</b> |
|   | <p style="font-size: 1.5em; color: blue;">[Signature]</p> <b>Approved:</b><br>Chief of Police |                                    |
|   | <b>Reference: TBP 3.04</b>  |                                    |

## I. POLICY

In the interest of public safety, the department provides officers with a range of non-lethal and less than lethal options. The department's policy ensures that members are properly trained in the use of these tools and the circumstances of their use. Supervisors shall rigorously enforce departmental weapons standards.

All sworn personnel shall qualify at least annually with departmental non-lethal and less-than-lethal weapons. Officers shall not carry or use any non-lethal or less than lethal weapon where they have not received training and been qualified. (TBP: 3.04)

## II. PURPOSE

To establish policy and procedures governing the issuance, training, care and maintenance, and qualification of non-lethal and less-lethal weapons.

## III. GENERAL PROCEDURES

### A. Approved Weapons

1. Non-lethal and less than lethal weapons currently approved by the department include:
  - a. Expandable Baton
  - b. Pepper Spray
  - c. Conducted Electronic Weapons (CEW's)
  - d. Less than Lethal Shotgun (bean bag rounds)
2. Department non-lethal or less than lethal weapons are determined by the Chief of Police based on the needs of the agency. Officers will not carry or use any weapon for which they are not qualified by the department to use.

### B. Security of weapons

Officers are responsible for the care and security of departmental weapons issued to them. Officers shall report any weapon loss or malfunction to the Chief of Police via the armorer or supervisor.

C. Modification and maintenance of weapons

1. Departmental weapons shall not be modified or altered without written approval of the Chief of Police.
2. Officers are responsible for cleaning and maintenance of non-lethal or less lethal weapons that are issued to them.

D. Weapon inspections

1. Officers shall inspect issued weapons at the beginning of each duty assignment to ensure they are in proper working order.
2. Supervisors shall inspect issued weapons at least monthly to ensure they are in proper working order.

#### **IV. QUALIFICATION REQUIREMENTS**

A. Required instruction and qualification

1. All department personnel shall receive training with any non-lethal and less lethal weapons that they will carry. Training shall cover the mechanics of the weapon, sound safety practices, and departmental policy governing the use of the weapon and the use of force. Tactical considerations shall be a part of this training.
2. Officers will receive training and demonstrate proficiency (qualify) at least annually on all departmental non-lethal or less lethal weapons systems. (TBP: 3.04)
3. Instructors for any non-lethal or less lethal weapon where the manufacturer recommends the instructors be certified before providing initial or refresher training shall be certified before providing the said training. (TBP: 3.04)

B. Qualification rules

1. The Firearms Instructor shall be in charge at all times when officers are qualifying with non-lethal or less than lethal weapons.
2. The Training Coordinator will maintain records of each officer's qualifications with non-lethal and less lethal weapons including:

- a. The officer's name and Identification Number
- b. The date of qualification and weapon system qualified.

## **V. EXPANDABLE BATON**

- A. The department authorizes the carrying and use of the expandable baton as the only striking weapon for officers. All other forms of striking or punching weapons are prohibited, including but not limited to saps, blackjacks, slapjacks, nunchaku and similar sticks, and brass knuckles. Flashlights carried by officers are not to be used as striking instruments, except as a last resort to protect the officer from injury.
- B. Officers who carry the expandable baton shall be trained and demonstrate proficiency in its use. The weapon may be used in quelling confrontations involving physical violence where higher levels of force are unnecessary or inappropriate and lesser levels are inappropriate or ineffective.
  1. The expandable baton should not be used to strike handcuffed individuals or to threaten or intimidate people.
  2. Officers shall not raise the expandable baton above the head to strike a blow to a person's head.
- C. All uses of the expandable baton will be immediately reported to a supervisor and documented in an incident report as well as a use of force report.

## **VI. OC PEPPER SPRAY**

- A. Authorization
  1. Only officers who have completed the prescribed course of instruction on the use of OC are authorized to carry the device.
  2. Officers whose normal duties/assignments may require them to make arrests or supervise arrestees may carry departmentally authorized OC while on duty.
- B. Uniformed officers shall carry only departmentally authorized OC canisters in the prescribed manner on the duty belt. Non-uniformed officers may carry OC in alternative devices as authorized by the agency.
- C. Usage Criteria
  1. OC spray is considered a use of force and shall be employed in a manner consistent with this agency's use-of-force policy.
  2. OC may be used when:

- a. verbal dialogue has failed to bring about the subject's compliance, and
  - b. the subject is actively resisting or has signaled his intention to actively resist the officer's efforts to make the arrest.
3. Whenever practical and reasonable, officers should issue a verbal warning prior to using OC against a suspect.
  4. Once a suspect is incapacitated or restrained, use of OC is no longer justified.

#### D. Usage Procedures

1. Whenever possible, officers should be upwind from the suspect before using OC and should avoid entering the spray area.
2. An officer should maintain a safe distance from the suspect of between two and 10 feet.
3. A single spray burst of between one and three seconds should be directed at the suspect's eyes, nose and mouth. Additional burst(s) may be used if the initial or subsequent burst proves ineffective.
4. Use of OC should be avoided, if possible, under conditions where it may affect innocent bystanders or contaminate a public facility.

#### E. Effects of OC and Officer Response

1. Within several seconds of being sprayed by OC, a suspect will normally display symptoms of temporary blindness, have difficulty breathing, burning sensation in the throat, nausea, lung pain and/or impaired thought processes.
2. The effects of OC vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being sprayed. Officers should also be prepared to employ other means to control the suspect—to include, if necessary, other force options consistent with agency policy—if he does not respond sufficiently to the spray and cannot otherwise be subdued.
3. Immediately after spraying a suspect, officers shall be alert to any indications that the individual needs medical care. This includes, but is not necessarily limited to, breathing difficulties, gagging, profuse sweating and loss of consciousness. Upon observing these or other medical problems or if the suspect requests medical assistance, the officer shall immediately summon emergency medical aid.
4. Suspects that have been sprayed shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody.

5. Officers should provide assurance to suspects who have been sprayed that the effects are temporary and encourage them to relax.
6. Air will normally begin reducing the effects of OC spray within 15 minutes of exposure. However, once the suspect has been restrained, officers shall assist him by rinsing and drying the exposed area.
7. Assistance shall be offered to any individuals accidentally exposed to OC spray who feel the effects of the agent.

#### F. Reporting Procedures

1. Accidental discharges as well as intentional uses of OC spray against an individual in an enforcement capacity shall be reported to the officer's immediate supervisor as soon as possible.
2. A use-of-force report shall be completed following all discharges of OC spray except during testing, training, malfunction or accidental discharge.

#### G. Replacement

1. All OC spray devices shall be maintained in an operational and charged state by assigned personnel. Replacements for damaged, inoperable or empty devices are the responsibility of officers to whom they are issued.
2. Replacements of OC spray canisters shall occur when the unit is less than half full, as determined by weighing the canister.

### **VII. CONDUCTED ELECTRONIC WEAPON**

#### A. Conducted Electronic Weapon

1. A Conducted Electronic Weapon, (CEW), is used to electrically disrupt muscular control and allow officers to quickly subdue a resisting subject without having to resort to the use of deadly force. The CEW is considered a less than lethal weapon.
2. There are precautions that must be observed as in the use of any weapon and it is our responsibility to monitor subject who have been controlled with the CEW for any medical problems.
3. The use of the CEW affords officers the opportunity of controlling individuals who are actively resisting without endangering themselves, the suspect, or the public.
4. It shall be the responsibility of supervisors of officers issued the CEW to ensure proper supervision, managerial controls, and compliance with this order.

## B. Training and Qualification Procedures

1. Only personnel who successfully complete the department's training course and demonstrate the required proficiency in the use of the CEW, shall be certified and allowed to carry the CEW. All training and qualification for the CEW shall be conducted by certified instructors.
2. It shall be the responsibility of the CEW Instructor to train and certify all eligible officers on the proper techniques and use of the CEW. The Patrol Commander or designee shall be responsible for compiling and analyzing data from incidents involving the use of the CEW to identify training related needs and issues.
3. In order to maintain proficiency in the use of the CEW, all officers certified to carry the weapon shall receive mandatory in-service training at least annually.

## C. Carrying the CEW

1. Certified officers shall carry the CEW in a secured holster opposite of their duty weapon. The CEW shall never be left unsecured. Only holsters approved by the Training Unit will be utilized. The CEW shall always be carried on the side opposite of the duty handgun.
2. The department will designate CEW Control Officers who will be responsible for the issuance, control, and replacement of all CEW devices and the equipment associated with them. The CEW Control Officers will keep a record of the serial numbers on each air cartridge and the officer to whom it was issued.
3. Personnel who are issued the CEW shall be responsible for the proper maintenance and care of the weapon. This shall include periodically checking battery life and expiration date of air cartridges, wiping away dirt and dust, and ensuring the rubber stopper is secured on the data port.

## D. Authorized Use of the CEW

1. The CEW may be utilized in situations when necessary to subdue a noncompliant subject when lesser means of control have not been successful and the suspect is physically resisting officers, or the officer reasonably believes that using physical force will escalate the situation, increasing the risk of injury to the officer or suspect. The act of verbal non-compliance alone shall not justify the use of the CEW.
2. The CEW may be utilized to debilitate a subject who poses an immediate threat of serious bodily injury or death to himself/herself, the officer, or others.

## E. Prohibited Use

1. Use of the CEW is strictly **prohibited** under the following circumstances:
  - a. When flammable gases or liquids are known to be in close proximity to the subject.
  - b. After OC spray has been administered.
  - c. Where the suspect is at an elevated location and there exists risk of serious injury or death from a fall. This includes proximity to deep water or other similar locations.
  - d. On visibly pregnant females, young children under the age of 14, the visibly frail or elderly persons who appear over 65 or less than 100 pounds, unless deadly force is otherwise justified and the CEW is used as an attempt to avoid the use of deadly force.
  - e. On handcuffed prisoners, without the expressed authority of a supervisor. Exigent circumstances must exist (such as to prevent the subject from injuring himself or others and other means of control are ineffective or unavailable).
  - f. On a subject who is visibly confined to a wheelchair unless it is objectively clear to prevent serious injury to himself/herself and/or if deadly force is justified.
  - g. On a subject in control of a vehicle.
  - h. On individuals with known neuromuscular disorders such as muscular sclerosis, muscular dystrophy or epilepsy; or persons known to be wearing pacemakers or other biomedical devices sensitive to electrical current, or known to have heart conditions.
2. No more than one officer should activate a CEW against a person at a time.

## F. CEW Deployment

1. Prior to deploying the CEW, whenever reasonable and practical, verbal warnings shall be issued to the subject, to allow the subject the opportunity to comply with the officer's commands.
2. Prior to deploying the CEW, the deploying officer shall announce the word "Taser" to alert others of the impending use of the weapon.
3. "Clear" shall be announced by the deploying officer subsequent to the use of the CEW and prior to affecting the arrest, so as to alert others that the weapon is no longer being deployed.
4. When activating a CEW, the officers should use it for one standard cycle and stop to evaluate the situation (a standard cycle is five seconds). If subsequent cycles are necessary, only the number and duration of cycles necessary to place the subject in custody will be used. Officers will be particularly alert for medical distress of the subject.

5. Officers should make every effort to avoid firing darts or directing the contact stun method at a subject's head, neck, front chest area or genitalia. Preferred targeting is the center mass of the subject's back. Where back targeting is not possible, officers should avoid chest shots unless deadly force would otherwise be justified.
6. The CEW direct contact stun (drive stun) method may be utilized as an alternative deployment method, when both probes fail to make contact with the subject and its effectiveness is reduced or the regular deployment method is either not possible or likely to be effective.

#### G. Post Deployment

1. Immediate Restraint. The subject will be restrained immediately to prevent additional resistance or injury. The subject will not be restrained in a manner that impairs respiration. If other restraints are unavailable, the subject may be handcuffed in front using a belt or strap to secure the cuffs to the body.
2. Officers shall immediately report any deployment of a CEW to the on-duty supervisor, who will respond to the scene of any CEW use. The supervisor will review the circumstances of the use, evaluate the need for medical attention, and take photos of any injuries to forward with "Use of Force" documentation.
3. Removal of Probes. CEW probes shall be removed as soon as possible, and preserved inside the spent air cartridge, placed backwards, and submitted as evidence marked "BIOHAZARD".
4. CEW probes that are imbedded in a subject's skin may be removed by police personnel who are trained in the removal of the probes. Police personnel shall summon EMS or other trained medical personnel for the removal of CEW probes that have struck a subject's head, throat, groin or any other sensitive area.
5. CEW probes that have penetrated a person's skin shall be considered a biological hazard and shall be handled with the appropriate care. Protective latex gloves should be worn prior to removal of the probes.
6. All persons who have been subjected to a CEW activation should be monitored regularly while in police custody even if they received medical care. Anyone subject to CEW deployment showing any signs of physical distress shall be transported immediately to a medical facility.

#### H. Reporting and Investigation

1. A Use of Force Report shall be completed on all CEW incidents. Personnel must clearly articulate the reasons for the initial use and all subsequent cycle(s) in the Use of Force Report. This includes the actual or threatened use of the CEW by an officer.

2. Photographs of the subject shall be taken in all instances wherein a subject is injured or complains of being of injured as a result of the use of the CEW. Photographs should depict overall condition of the suspect, any injuries and the locations where the probes made contact.
3. All CEW deployments or discharges, including test firings, shall be recorded in a CEW log. A supervisor must sign the CEW log verifying that the information contained therein is accurate. The presence of a supervisor during testing is not required.

#### I. Inspection

The CEW instructor shall, on a monthly basis, inspect their officer's CEW log and data port to determine if there have been any discharges since the previous inspection. Any undocumented discharges shall require the officer to prepare a memorandum to their immediate supervisor explaining the circumstances surrounding the discharge.

#### J. General Consideration

1. Officers should be aware that multiple activations and continuous cycling of a CEW appear to increase the risk of death or serious injury and should be avoided where practical.
2. Officers must be aware of the limitations of the CEW and be prepared to transition to other force options as needed.
3. Officers should be aware that there is a higher risk of sudden death in people under the influence of drugs and/or symptoms associated with excited delirium.
4. Officers should also be aware that CEW cartridges have experienced firing problems in extremely cold weather.

#### K. Defense Against CEW Use

1. When a subject is armed with a CEW and attacks or threatens to attack a police officer, the officer may defend himself when he reasonably believes it is immediately necessary to avoid becoming incapacitated and risking the possibility that the subject could gain control of the officer's firearm. When possible, officers should attempt to move outside the device's range (approximately 21 feet) and seek cover, as well as request back-up officers to mitigate the danger.

### **VIII. LESS-LETHAL SHOTGUN**

#### A. Authorization

1. Less-lethal shotguns may be issued to members of the department who have been trained and demonstrated proficiency in the use of the weapon. Care should be used in ensuring the appropriate weapon is selected for use.
2. The less-lethal shotgun may be loaded with any number of less-lethal munitions including bean bag rounds, rubber batons and rubber pellets. Officers must be qualified in the use of all munitions approved by the department in order to be qualified with the weapon.
3. Officers will not handle lethal shotgun ammunition around a less-lethal shotgun. Officers will load only less-lethal munitions into the less-lethal shotgun at the time of need to ensure the use of proper munitions. Departmentally approved less-lethal munitions will be carried in the munitions carrier on the stock of the weapon.

#### B. Less-Lethal Shotgun Use

1. Officers may utilize the less-lethal shotgun when reasonably necessary and in a manner consistent with the department's use of force policy. It is a use of force option that has potential risks but may be used as an alternative to the use of deadly force when time and opportunity permit.
2. Officers should be aware of their surroundings and have a backup officer present and prepared to transition to other force methods if the less-lethal shotgun fails to subdue a subject.
3. Where possible, officers should inform other police personnel in the immediate vicinity that impact rounds will be deployed in order that the shot will not precipitate the use of firearms by other officers.
4. Officers shall deploy the less-lethal shotgun at the mid-section and lower extremities of suspects, never aiming for the head or upper torso.
5. In the event an individual is struck by a less-lethal round, officers shall properly restrain the individual and transport them to a medical facility for examination.
6. All uses of the less-lethal shotgun will be immediately reported to a supervisor and documented in an incident report as well as a use of force form.