



# CONCORD POLICE DEPARTMENT

## STANDARD OPERATING PROCEDURE LESS LETHAL FORCE

**GENERAL ORDER:** 05.09

**CALEA STANDARD:** 1.3.4

**ISSUE DATE:** December 01, 2000

**ACTION:** Amends revision date February 3, 2016

**EFFECTIVE DATE:** April 5, 2016

### **05.09.0**     **PURPOSE**

The purpose of this General Order is to establish policies and procedures for the use of less lethal force.

### **05.09.1**     **POLICY**

The policy of the department is to encourage the use of alternatives to deadly force.

### **05.09.2**     **OBJECTIVE**

The objective of less lethal force is to cause cessation of hostile acts by a person who presents a danger to citizens and/or officers. Because no device is 100 percent capable of achieving this objective without causing death or serious injury, officers should expect that some persons might not become incapacitated and may increase resistance or become more aggressive. For this reason, less lethal force is not required if deadly force is authorized by law and policy.

### **05.09.3**     **IMPACT MUNITIONS**

- A. The 12-gauge bean bag is a cloth shot filled bag designed to be fired at lowered velocity from a 12-gauge shotgun.
- B. The 12-gauge bean bag is designed to be a less lethal round, but can be used in a manner that would constitute deadly force.
- C. Use of the 12-gauge bean bag is limited to situations where deadly force would be considered as a viable option.
- D. Target areas with the 12-gauge bean bag, or any other impact munitions, should be in compliance with current department and manufacturer training.
- E. Minimum and maximum ranges should be adhered to in accordance with current department training and manufacturer recommendations.
- F. Shotguns used to deploy the 12-gauge bean bag will be equipped with an orange stock. Standard 12 gauge ammunition shall **not** be loaded into a shotgun equipped with an orange stock.
- G. Qualification with the 12-gauge bean bag will be on an annual basis at scheduled department training.

- H. The 12-gauge bean bag varies in effectiveness according to the size, fitness level, and mental state of the suspect. Usually, three rounds should be considered as having the maximum effective potential, however, three rounds is neither a maximum or minimum limit prior to deployment of other techniques, including but not limited to, deadly force. For their safety, officers deploying the 12-gauge bean bag should do so when backed up by officers equipped to use deadly force.
- I. Suspects struck by the 12-gauge bean bag should be placed in custody and evaluated by EMS as soon as possible.
- J. Use of the 12-gauge bean bag shall be reported as a use of force.

#### **05.09.4      OLEORESIN CAPSICUM (OC) AEROSOLS (PEPPER SPRAY)**

- A. Officers are issued a water based oleoresin capsicum aerosol projector as a less lethal weapon, which may be used to defend them, others, and/or due non-compliant subjects. OC should be considered as a supplement to, rather than a replacement for, empty hand control, impact weapons, or the service firearm.
- B. All officers are required to attend department training in the use of pepper spray. Only the initial OC training includes a pepper spray exposure. All uniformed officers are required to carry department issued pepper spray aerosol projector. The officer's training file shall contain documentation of training in the use of OC aerosol projectors within the previous 24 calendar months.
- C. The use of OC aerosol is to be considered as a use of force and all use of force policies and procedures shall apply.
- D. OC aerosol may be used after verbal commands have failed to achieve compliance, but before closed hand techniques.
- E. Deploy OC aerosol in the facial area assuring coverage of the eye zone (eyes, forehead, and brow) – secondary is the nose and mouth. Isolated controlled motion from ear to ear is the most effective spray method proper tactics dictate the element of surprise, remaining no closer than 3 feet and no farther than 12 feet from the subject.
  - 1. **SPRAY** the subject until it is determined that the subject is contaminated or that the OC is ineffective and other measures are necessary.
  - 2. **COMMAND** the subject to get on the ground (legs crossed, arms out).
  - 3. **EVALUATE** his/her response – repeat steps 1-3 if required or escalate or deescalate.
  - 4. **ATTEMPT TO CONTROL** the subject while avoiding, to the extent possible, pressure or weight on his/her back.
  - 5. **MEDICALLY** check subject – start decontamination.

- F. In addition to all other policies and procedures regarding injured persons, the following steps must be taken with regard to a person contaminated by the use of OC aerosol:
1. Officers should make every attempt to explain to the subject that he/she is going to help reduce the discomfort the suspect is feeling, as long as he/she cooperates. Some persons will display a panic-type attitude contributed to by the effects. Officers should make every attempt to reassure these persons that the effects are temporary and not life threatening. The most helpful source of relief officers can provide is to remove the person from the contaminated area and provide fresh air. Fresh air can be from the open air or from the air condition vents of the patrol vehicle.
  2. Officers shall radio the communications center and request EMS for decontamination assistance. While waiting for EMS to arrive, the officer will monitor the subject and tell the person that he/she has been sprayed with a pepper spray that is non-toxic and the effects will dissipate in a short time. The officer should ask the subject if they have any medical conditions. This information will be relayed to EMS to assist with treatment and decontamination.
  3. If the subject refuses treatment, the officer must constantly monitor the subject during the entire arrest processing. The officer must advise the Cabarrus County Sheriff's Department detention officer the condition of the subject and the time the person was sprayed with OC before releasing the person into the detention officer's custody.
- G. When the container has been used it shall be turned in for replacement following current department procedures.

**05.09.5****EXPANDABLE BATON**

- A. Officers are issued a police straight expandable baton. All officers are required to attend department ASP expandable baton training. The police straight expandable baton is to be carried by officers assigned to uniform duty at all times unless assigned to office duties. The officers training file shall contain documentation of training in the use of the expandable baton within the previous 24 calendar months.
- B. Striking methods with a flashlight may be used to stun or surprise an individual in order to create time for an officer to deploy some other use of force option or restraining device. A flashlight should be used only when there is no other reasonable alternative. Striking areas with the flashlight should be consistent with those areas struck with a baton.

**05.09.6**      **CONDUCTED ELECTRICAL WEAPONS**

## A. DEFINITIONS:

1. Conducted Electrical Weapon (CEW): A device designed to disrupt a subject's motor and sensory nervous systems by deploying battery-powered electrical energy sufficient to cause uncontrolled muscle contractions and override voluntary motor responses. Taser ® CEWs used by the Concord Police Department include, but are not limited to: the X26, X26P, and the X2.
2. Digital Powered Magazine (DPM): A custom lithium energy cell power supply system for the X26 Version CEWs.
3. AFIDs: Confetti-like pieces of paper that are expelled from the cartridge when fired. Each anti-felon identification (AFID) tag contains an alphanumeric identifier unique to the cartridge used.
4. Performance Power Magazine (PPM): A power source used in the X26P and X2 CEWs which contains three 3-volt lithium batteries. The APPM version causes the device to shut off automatically after 5 seconds.
5. ARC Display: A non-contact demonstration of the ability to discharge electricity. This is conducted only when the cartridge has been removed from the weapon. The purpose of this display is to convince the subject to comply with lawful order and avoid the CEW from being deployed in the contact stun or probe mode. It is also used to assure the CEW is working properly.

## B. AUTHORIZED USERS

1. Taser less lethal weapons will be used in a manner that is consistent with the guidelines and training taught by the Taser International certified instructors. Only officers who have satisfactorily completed this agency's approved training course shall be authorized to carry CEWs. The officers training file shall contain documentation of training in the use of CEWs within the previous 12 calendar months.

## C. DEVICE READINESS

1. The device will be carried in a manner consistent with department training and instruction. Officers not assigned to uniformed patrol may utilize other department approved holsters and carry the weapon consistent with department training.
2. The device shall be carried with the cartridge(s) loaded and the safety engaged until immediate use is authorized.

3. Officers authorized to use the device shall be issued a minimum of one spare cartridge as a backup in case of cartridge failure, the need for redeployment, or in case the first cartridge's leads break during engagement. The spare cartridges shall be stored and carried in a manner consistent with training and the cartridges replaced consistent with the manufacturer's expiration requirements.
4. Only agency-approved battery power sources shall be used in the CEW. The DPM/PPM shall only be removed by a Taser International instructor (or department CEW instructor).
5. The CEW will be test fired at the beginning of each tour of duty as instructed to ensure the unit works properly.

#### D. DEPLOYMENT

1. Tasers **may only** be used in situations where the subject poses an immediate and continuing danger. Non-compliance and non-violent physical resistance do not necessarily create this immediate and continuing danger. A Taser may not be used on a subject who physically resists in a non-violent manner, unless the situation is such that an officer could reasonably conclude that the resistance presents some immediate danger, despite its non-violent character. The X-26 Taser and similar devices are now regarded by the Court as a greater use of force than as previously ranked on traditional police use-of-force continuums.

Factors to be considered in the use of Taser:

- a. The number of officers present. When more than one officer is present, the use of Taser is not authorized unless officers can clearly articulate that the subject continues to pose an immediate and serious threat, not negated by the number of officers present.
- b. Size and strength. If only one officer is present, the relative sizes and apparent physical strength of the officer and the subject must be taken into consideration.
- c. Mentally ill or non-criminal. Tasers must not be used against a mentally ill person or other person who is not suspected of a crime unless doing so is necessary to protect officer or others from an immediate, serious, physical threat posed by that person. In case of apparently mentally ill persons, every reasonable effort to de-escalate or otherwise resolve the situation must be made before Taser is used.
- d. Repeated drive stun(s). A Taser shall not be used to repeatedly drive-stun an apparently mental ill subject. If the initial drive-stun(s) do not achieve compliance, repeated uses of the drive stun will not be attempted.
- e. Manufacturer Guidelines. Tasers will be used **only** in strict compliance with the manufacturer's most current recommendations and guidelines.

2. The CEW **shall not** be used:

- a. In proximity to flammable liquids, fumes, gases, blasting materials, or any other highly combustible materials that may be ignited by use of the device, including but not limited to, any subject who may have been contaminated with combustible liquids.

**Note: Some areas within medical facilities have oxygen or other flammable gases or substances in use. Officers need to be aware of this when deciding whether to use a CEW.**

- b. On a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
- c. When it is reasonable to believe that incapacitation of the subject may result in serious injury or death (such as in water or elevated surface).
- d. On any suspect who does not demonstrate an overt intention: (1) to use violence or force against the officer or another person, or (2) to flee in order to resist or avoid detention or arrest (in cases where officers would pursue on foot).
- e. Punitively for the purpose of coercion, or in an unjustified manner.
- f. To escort or prod subjects.
- g. To awaken unconscious or intoxicated individuals.
- h. To force the surrender of blood or urine evidence.
- i. Against subjects who are offering only passive and/or verbal resistance.

3. The CEW **should not** be used in the following circumstances (unless there are compelling reasons to do so which can be clearly articulated):

- a. Against persons operating a motor vehicle.
- b. Against persons with apparent debilitating illnesses or the elderly.
- c. Against small children.
- d. Against persons on stairs, to eliminate the possibility of the subject falling and sustaining injury.
- e. When the subject is visibly or known to be pregnant.

- f. Against a person with apparent medical conditions that may be adversely affected by using the CEW, left to the totality of situation and tactical necessity of the user.
      - g. In a situation where deadly force is clearly justifiable, unless another officer is present and capable of providing deadly force to protect the officers and/or civilians as necessary.
  4. Upon firing the device, the officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective.
  5. The subject should be secured as soon as practical while disabled by CEW power to minimize the number of deployment cycles. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
  6. In preparation for firing, the CEW shall be pointed in a safe direction, the safety disengaged, and then aimed. Center mass of the subject's back should be the primary target where reasonably possible; **lower** center mass of the **area below the sternum** or the legs are the secondary targets.
  7. The device may also be used in certain circumstances in a drive stun mode. It is important to note that when the device is used in this manner, it is:
    - a. Primarily a pain compliance tool due to a lack of probe spread.
    - b. Minimally effective compared to conventional cartridge-type deployments.
    - c. More likely to leave marks on the subject's skin.
    - d. Subject to the same deployment (use) guidelines and restrictions as those of the CEW in cartridge deployments.
  8. The CEW shall be pointed at the ground in a safe direction with the safety on during loading, unloading, or when handled in other than an operational deployment.
- E. AFTERCARE
1. The CEW probes may be removed from the subject after the subject is restrained following procedures outlined in training. The probes shall be placed in an approved Bio-Hazard Sharps container for proper disposal. They should not be retained as evidence due to potential biohazard problems. (Refer to GO 09.08.7 Infection Control).
  2. Whenever an individual has been incapacitated by a CEW, the officer shall contact the Cabarrus County EMS for a medical evaluation of the

individual. The officer shall continue to monitor the individual until EMS arrives.

3. Officers shall specifically alert EMS of any person who:
  - a. requests medical attention; officers shall ask persons if they desire medical attention,
  - b. is struck in a sensitive area (face, head, female breasts, neck, male groin),
  - c. from whom officers have difficulty removing the probes (owing to probe or barb separation),
  - d. does not appear to recover properly after being struck,
  - e. is in a potentially susceptible population category as defined in 05.09.6 (D)(2) of this policy,
  - f. has been energized more than three times,
  - g. has had more than one CEW effectively used against him or her in any given incident,
  - h. has been subjected to a continuous energy cycle of 15 seconds or more, or
  - i. has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to CEW exposure.
4. Photographs of the affected area shall be taken after the probes are removed. Drive stun marks shall also be photographed.
5. When the device has been used operationally, the officer shall collect the cartridge, wire leads, and probes. At no time shall the probes be placed into evidence due to biohazard problems.

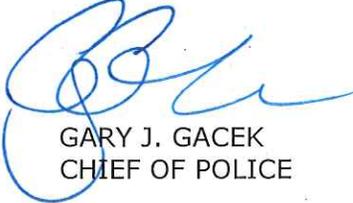
#### **05.09.7**

#### **IMMEDIATE SUPERVISOR RESPONSIBILITIES**

- A. When there is an active deployment of the CEW, whether intentional or not, a supervisor shall be notified and will respond to the scene. The responding supervisor shall conduct an administrative review of the incident and file a Use of Force Report.
- B. Supervisors shall ensure the subject receives appropriate medical treatment and the scene is secured.
- C. Supervisors shall ensure photographs are taken of the site of the probe impacts, drive stun marks, and any related injuries.
- D. Supervisors shall ensure that probes, cartridges, and wires are disposed of, taking into consideration biohazard procedures. The responding supervisor shall determine whether or not the cartridge and wires will be retained as evidence. In most cases, when the suspect appears to recover fully with no serious injuries, this will not be necessary. Examples of cases where these items should be retained include, but are not limited to: in-custody death of a suspect, serious injury to a suspect, medical transport of the suspect on advice of EMS, and any other circumstance where the supervisor determines that these items might be of value. These items may be released from

evidence and destroyed when it is determined that they no longer have any investigatory or evidentiary value.

- E. Supervisors shall ensure that arrangements are made for the officer to receive a replacement cartridge after a discharge of the CEW cartridge.
- F. Supervisors shall ensure that CEW use data has been downloaded and a copy of the data is attached to the UOF Report.
- G. Supervisors shall ensure that the CEW is downloaded semiannually, when there is an active deployment, when there is reason to believe there was an active deployment (e.g., a complaint of inappropriate use), or when otherwise deemed necessary.



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