

Denver Police Department Operations Manual

100.00 - Patrol Division and General Procedures
105.00 Use of Force

105.02 Less Lethal Force and Control Options

(1) POLICY:

The primary duty of police officers is to protect the public, themselves and other officers. Less lethal force and control options may assist officers in performing these duties, but are not intended to substitute for the use of deadly force when it is reasonable and necessary. There is neither a requirement nor an expectation that officers attempt to use or exhaust less lethal options in situations requiring the use of deadly force.

(2) LESS LETHAL OPTIONS

The Denver Police Department authorizes the use of Electronic Restraints Devices (ERD)/TASER, Pepper Ball deployment systems, twelve (12) gauge and forty (40) mm specialty impact munitions to be carried by certain officers in their normal duty assignments.

(3) LESS LETHAL WEAPONS DEFINITIONS

- a. Less lethal: A concept of planning and force application which meets an operational or tactical objective, with less potential for causing death or serious injury than conventional more lethal police tactics.
- b. Less lethal weapon: Any apprehension or restraint device approved for carry, which when used as designed and intended has less potential for causing death or serious injury than conventional police lethal weapons. Less lethal weapons include Electronic Restraints Devices (ERD/TASER), Pepper Ball deployment systems, less lethal twelve (12) gauge shotguns and forty (40) mm projectile systems and others as approved by the Chief of Police.
- c. Less lethal officer: An officer trained in the principles of less lethal force and the use of less lethal weapons. One who is authorized by the Department to carry and deploy one or more of the weapons in the performance of their duties.
- d. Less lethal shotgun: Department approved twelve (12) gauge shotgun with a cylinder bore eighteen-inch (18) barrel. The shotgun, except those approved by the Chief of Police

for use by Metro/Swat, has a high visibility stock and fore-end and is equipped with rifle sights.

e. Twelve (12) gauge beanbag projectile: Department approved and issued. The beanbag projectile is a lead-shot-filled fabric bag designed to be non-penetrating and to deliver its kinetic energy over a broad surface area.

f. Forty (40) mm Launcher: Either a single round or multi-launcher, department approved, with fixed stock and rifle barrel.

g. Forty (40) mm Projectile: Only Department approved and issued specialty impact munitions may be deployed.

h. ERD/TASER: Advanced Taser M-26 ERD (Electronic Restraint Device) which uses a twenty-six (26) watt electrical signal to temporarily override the central nervous system and directly control the skeletal muscles. This causes an uncontrollable contraction of the muscle tissue, allowing the M-26 to physically debilitate a target regardless of pain tolerance or mental focus.

i. Pepper Ball System: Air-Powered launch device and projectiles that are plastic spheres filled with powdered or liquid five (5) % Oleoresin Capsicum (OC). Projectiles burst on impact and release OC. Pepper Ball projectiles subdue by strongly irritating the nose, lungs and breathing. Response to inhaling Pepper Ball projectile OC powder varies greatly among individuals. In most cases the symptoms last for a few minutes. The Pepper Ball can deliver projectiles with enough kinetic energy to produce abrasions, bruises, and/or welts.

(4) LESS LETHAL WEAPON PROCEDURES

The authorization to carry a less lethal weapon is a privilege and can be revoked at any time, for any reason by the officer's commander with approval of the officer's Division Chief or higher.

a. Officers will be selected, trained and certified as less lethal officers and alternates. Only less lethal officers and alternates are authorized to display, carry or deploy any less lethal weapon. When vacancies occur among the ranks of less lethal officers, they will be filled by designation of an officer from the alternate pool. Selection of less lethal officers and alternates will be based on the following criteria:

b. Minimum qualifications

c. Officers must be selected by their commanding officer and approved by their Division Chief.

1. Officers must attend and pass a mandatory training course, an annual in-service course and periodic qualification conducted by Firearms Section personnel. The formal updated training curriculum and list of qualified officers will be kept on file at the Training Bureau.

2. Less lethal certified officers who fail to qualify with their firearm two or more quarters in a twelve (12) month period shall be removed from the less lethal program. It is the responsibility of the officer and the supervisor of the Firearms Section to notify the officer's commander and the officer's Division Chief verbally and in writing of the failure to qualify as required by this section.

3. Violations of this policy may result in revocation of the privilege to carry a less lethal weapon.

d. Storage and issuance of less lethal weapons.

1. Storage

a. All Less lethal weapons not deployed in the field will be maintained in a police facility, in a locked cabinet or room designed specifically for the secure storage of only less lethal weapons.

2. Issuance

a. The less lethal shotgun will be issued to qualified officers by a designated armory officer or supervisor at the beginning of each shift and returned at the end of the officer's shift to an armory officer or a supervisor.

b. The ERD/TASER will be issued to qualified officers by a designated armory officer or supervisor at the beginning of each shift and returned at the end of the officer's shift to an armory officer or a supervisor.

c. Field Force Squad or Zone commanders may issue Pepper Ball deployment systems and less lethal shotguns or forty (40) mm projectile systems to qualified personnel assigned to each squad.

d. All available less lethal weapons will be issued at the beginning of each shift provided sufficient numbers of qualified officers are on duty and returned at the end of the officer's shift to an armory officer or a supervisor.

e. Qualified officers may not decline to be issued, carry or deploy less lethal weapons.

e. Carrying and deployment of less lethal weapons

1. Personally owned less lethal weapons are prohibited and shall not be authorized for use.
2. Officers or supervisors will determine when less lethal weapons are to be deployed.

Officers deploying a less lethal weapon usually serve as cover officers only. Less lethal officers shall not perform any other duties, such as searching or handcuffing, until their weapon is secured. Planning and communication between officers and supervisors is important when making deployment and strategy decisions.

- a. The Less lethal shotgun is to be carried in the trunk of the police car with an empty chamber with the safety on and magazine loaded with four (4) rounds of Less lethal ammunition.
- b. When deployed, the ERD will be carried on the belt in the issued holster, worn on the side opposite the firearm. When not worn, the ERD will be secured in a locked vehicle, not visible to passers-by.
- c. Pepper Ball guns may be authorized by Field Force Commanders for use during field force operations and major crowd control events. Subject to availability certified supervisors or officers may carry the Pepper Ball gun while on patrol.
- d. Officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.

3. Less lethal shotgun or forty (40) mm projectile deployment:

a. Use of a less lethal shotgun or the forty (40) mm projectile will be considered a use of force and must meet the requirements of all Department policies and procedures and Colorado Revised Statutes.

b. Acceptable uses of a less lethal shotgun or forty (40) mm projectile include:

1. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Active Aggression. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances and it is reasonable and necessary in order to attempt to avoid having to use deadly force. (Active Aggression is defined as a threat or overt act of an assault,

coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.) OR

2. Used as a defensive weapon option in situations where it is likely to prevent an officer or a third person from being seriously injured or killed. OR

3. To incapacitate a suicidal person who cannot be safely controlled with other force options.

c. Unless deadly force is warranted, an officer shall not intentionally deploy the less lethal shotgun projectile or 40mm projectile

1. To the head, eyes, throat, neck, breasts of a female, genitalia or spinal column.

2. To a pregnant female, (if the officer has knowledge of the pregnancy).

d. When practicable, officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.

e. The use of the less lethal shotgun and the forty (40) mm projectile shall be reported as an impact use of force. In the case of a serious bodily injury or death the use shall be investigated as outlined in OMS 105.03 "Shooting by and/or of Police Officers."

f. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.

4. Pepper Ball System Deployment

a. Use of the Pepper Ball projectile shall be considered a use of force and must meet the requirements of all Department policies and procedures and Colorado Revised Statutes.

b. Acceptable uses of the Pepper Ball projectile may include:

1. Incapacitating a combative or physically resistive person to the point where they can be controlled and taken safely into custody. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Defensive Resistance.

a. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody.

b. When other force options would be inappropriate or ineffective under the circumstances this, use of force option becomes necessary (Defensive resistance is defined as physical actions that attempt to prevent officer's control including flight or attempt to flee. But do not involve attempts to harm the officer.)

2. Situations when its use is likely to prevent an officer or a third person from being injured.

3. To incapacitate a suicidal person who cannot be safely controlled with other force options.

4. When ordered by the field force commander or other command officer in crowd control or riot situations.

c. Unless deadly force is warranted, an officer shall not intentionally deploy the Pepper Ball projectile as follows:

1. To the head, eyes, throat, neck, breasts of a female, genitalia or spinal column.

2. To a pregnant female, if the officer has knowledge of the pregnancy.

3. On or in an open wound if the officer has knowledge of the open wound.

d. Officers shall communicate to other officers that they are about to discharge a less lethal weapon prior to its use or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.

e. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.

5. Less lethal ERD/TASER Deployment

a. Use of an Electronic Restraint Device (ERD/TASER) shall be considered a use of force and must meet the requirements of all department policies and procedures and the Colorado Revised Statute.

b. Acceptable uses of the ERD / TASER include:

1. To incapacitate a combative or physically resistive person; whose conduct rises at least to the level of Active Aggression. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the

circumstances. (Active Aggression: A threat or overt act of an assault, coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.) OR

2. In situations when its use is likely to prevent an officer or a third person from seriously bodily injury, OR

3. To incapacitate a suicidal person who can't be safely controlled with other force options.

c. Unless deadly force is warranted, officers shall not intentionally deploy the ERD /TASER as follows:

1. To the head, eyes, throat, neck, breast(s) of a female, genitalia or spinal column.
2. To a pregnant female, if the officer has knowledge of the pregnancy.
3. On an open wound, if the officer has knowledge of the open wound.

d. Officers will not use the ERD/Taser in the following situations:

1. Near flammable gases or liquids.
2. Drug houses where ether or other flammable chemicals are suspected.
3. No officer shall playfully, maliciously, or intentionally misuse or display the ERD/Taser

e. Officers shall communicate to other officers and the subject that they are about to discharge a less lethal weapon prior to its use; or clearly and audibly announce the same to officers in the immediate area unless urgent circumstances prevent this from occurring.

f. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.

g. Medical evaluation is required whether the subject is shot with probes or the ERD /TASER is used as a contact stun device. Only medical personnel will be allowed to remove probes from individuals shot with the ERD/TASER.

h. Probes and identification confetti will be recovered and placed in the Property Bureau by the supervisor conducting the Use of Force investigation.

i. Data from the M26 Taser shall be downloaded into a computer file and the results shall be documented as part of the Use of Force investigation.

(5) IMPACT TOOLS/DEVICES:

Include the Department approved police baton, sap, billy club, flashlight, and O.P.N. listed below when used as an impact device.

a. Impact tools/devices authorized for carry or use include:

1. Police Baton:

a. Standard issue twenty-nine (29) inch baton.

b. Standard issue thirty-six (36) inch riot baton.

c. Commercially manufactured or custom made batons that closely resemble the length, diameter, composition and appearance of the standard issue baton.

d. The Monadnock model MX, black, twelve (12) inch to twenty-six (26) inch, is an approved expandable baton which is not issued, but authorized for carry and use upon successful completion of specialized training.

e. Batons with ornate carvings or a metal ball attached to either end are not authorized.

2. Flashlight: Any commercially manufactured flashlight, black in color, up to the standard three (3) cell size, not to exceed a length of thirteen (13) inches nor a diameter of three (3) inches.

3. Sap: Any commercially manufactured beaver-tail sap, black leather with smooth finish, not to exceed a length of twelve (12) inches nor a width of three (3) inches.

4. Billy club: Any commercially manufactured or custom club made of wood or composite material, not iron or steel, designed to fit in the sap pocket, not to exceed a length of twelve (12) inches or a diameter of two (2) inches.

5. Prohibited Items: All other devices including but not limited to sap gloves, brass knuckles, yawara sticks, iron claws, shirkins, ropes, and non-department issued leg restraint devices, including rope or cord hobbles are not authorized for carry. See OMS 111.03.

b. Impact Tool/Device -- General Guidelines:

1. If a person resists non-violently (passive non-compliance), the impact tool/device may be used only to apply come-along/escort-compliance holds. A person, who remains nonviolent, will not intentionally be struck with the impact tool.

2. If a person forcefully resists and/or attacks an officer or other person, an officer is permitted to strike the person with an impact tool/device, provided the officer uses reasonable care to confine such strikes and power levels, to areas of the body which, if struck, are not intended or likely to cause serious bodily injury.
3. The head and neck shall not be intentionally struck with the impact tool/device, unless the officer is justified in using deadly force.
4. Impact tools/devices shall be maintained in serviceable condition and shall not be modified, altered or fitted with any unauthorized add-on device in any way that is not approved in writing by the Department. They may be marked with the officer's serial number but shall not be marked or adorned in any other fashion.
5. Defective, broken, or altered impact tools shall not be carried.
 - a. An officer who discovers an impact tool/device that is unserviceable must immediately cease carrying the item and, if issued by the Department, promptly submit a written request for replacement through the chain of command.
 - b. All officers shall receive the designated training on each impact tool or device that they intend to carry before carrying the tool or device on or off duty. The mandatory training will be recorded in the officer's permanent training record. Bureau and District Commanders will insure that the appropriate training is current and documented for all officers under their commands.
 - c. Use of Impact Tools or Devices to Apply Deadly Force:
 1. An impact tool or device is generally used as a "compliance tool" to overcome non-deadly force exercised by a person resisting the officer's authority. However, in certain circumstances the impact tool or device can be properly used to apply greater force up to and including deadly physical force. Refer to CRS §18-1-707(2) for the circumstances under which deadly physical force can be used.
 2. Incorrect, reckless or negligent strikes to certain bodily areas may cause unintentional serious bodily injury or death. If not justified to use deadly physical force under CRS §18-1-707(2), this conduct could result in administrative discipline, civil actions or criminal charges against the officer.
 3. Examples of reasonable deadly force applications of impact tool or devices include:
 - a. Controlling a suspect who has disarmed an officer and the officer reasonably believes that the suspect is about to use the firearm against the officer or another.

b. Controlling a suspect who is armed with a knife or other deadly weapon and due to the suspect's close proximity, the officer reasonably believes that the suspect is threatening the officer with imminent death or serious bodily injury.

4. Orcutt Police Nunchaku (OPN)

a. The Orcutt Police Nunchaku is an authorized safety tool primarily used for arrest control and self-defense. Other brands, designs or types of nunchaku are not authorized.

b. Officers must first successfully complete a basic level OPN course authorized by the Denver Police Department prior to carry or use of the OPN in the performance of duties.

c. Officers must successfully complete refresher training as required by the department. Officers failing to re-certify as required shall no longer carry or use the OPN in the performance of duties.

d. If the OPN is used to strike a subject or injury occurs, whether or not an arrest is made, a Use of Force Report is required, in accordance with OMS 105.01(1).

5. Chemical Agent

a. Chemical agents provide an excellent force option in certain situations.

b. Chemical agents may be used when reasonable and justified in the following situations:

1. To prevent an injury to an officer or a third person.
2. To ward off threatening dogs and other animals.
3. To subdue a person who is threatening or attempting physical harm to himself or another.
4. Against subjects resisting arrest.
5. To quell rioting.
6. Against subjects interfering with an arrest.
7. Any situation where the officer can clearly articulate the need to deploy this device.

c. Authorization for use of a chemical agent, other than personal/individual issue, may not ordinarily be given by an officer below the rank of sergeant. The use of a chemical agent for crowd control or riot control must ordinarily be authorized by an officer of the rank of lieutenant or higher, except in the event of an emergency were the officer in charge of a field situation cannot reasonably contact higher authority.

d. Immediate evaluation by medical personnel is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a less lethal weapon was used.

6. CAROTID COMPRESSION TECHNIQUE

a. Use of the carotid compression technique shall be considered a use of force and must meet the requirements of all department policies and procedures and the Colorado Revised Statute.

b. Acceptable uses of the carotid compression technique include:

1. To incapacitate a combative or physically resistive person whose conduct rises at least to the level of Aggravated Active Aggression. The purpose is to neutralize the person to the point they can be safely controlled and taken into custody. This use of force option becomes necessary when other force options would be inappropriate or ineffective under the circumstances. (Aggravated Active Aggression -- Deadly force encounter) OR

2. In situations when its use is likely to prevent an officer or a third person from seriously bodily injury, OR

3. To incapacitate a suicidal person who cannot be safely controlled with other force options.

c. Immediate medical evaluation by paramedics is required to determine the degree of injury suffered by the suspect. This medical check shall be documented on the UOF report and the GSS&C. If the prisoner is jailed, the officer will notify detention facility personnel that a carotid compression technique was used.

d. Only officers who have been trained by the Denver Police Department in the application of the carotid compression technique may utilize this force option.

7. POLICE SERVICE DOGS

a. Police service dogs, when properly utilized are a useful resource. They are particularly useful in searches, tracking, and apprehension of suspects and protection of officers.

b. When it is believed a suspect may be armed with a weapon likely to cause injury or death to the police service dog, the dog will be used at the discretion of the handler.

c. A police service dog may be used in a reasonable manner as determined by the handler, to search when the following conditions exist:

d. When the suspect is actively evading arrest.

e. When the suspect is believed to be hiding in an area where the use of a canine would reduce the threat to officers or the public.

f. A police service dog may be used to apprehend a suspect at the discretion of the handler and in accordance with Canine Unit Policies and Procedures.

g. Risk to Third Parties: In using police service dogs, the canine handler shall exercise reasonable care to avoid unnecessary risk of injury to persons who are not the subject of a search or apprehension.

h. Should a police service dog injure a subject during an arrest, the canine officer/handler will request medical assistance, after first securing the suspect and the arrest scene.

i. The injury will be reported in accordance with the requirements of OMS 105.01.

j. Deployment of a police service dog during an arrest must comply with the requirements of the Use of Force policy and Colorado Revised Statutes.

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