

Less-Lethal Devices

303.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of less-lethal devices that are described in this policy.

303.2 POLICY

In order to control individuals who are violent or who demonstrate the intent to be violent, the Missoula Police Department authorizes officers to use less-lethal devices in accordance with the guidelines in this policy and the Use of Force Policy. The Chief of Police may also authorize other positions or individual department members to use specific less-lethal devices.

303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the Chief of Police or the authorized designee.

Only those members who have successfully completed department-approved training on this policy and the use of any less-lethal device are authorized to carry and use the device. On-duty uniformed officers are required to carry their Conducted Energy Device and either Baton or OC spray/CS gel.

Less-lethal devices may be used when a decision has been made to control, restrain or arrest a person who is violent or who demonstrates the intent to be violent and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

303.4 RESPONSIBILITIES

303.4.1 SHIFT COMMANDER RESPONSIBILITIES

The Shift Commander may authorize the use of a less-lethal device by selected department members who may not currently be issued or carrying the less-lethal device or those in specialized assignments who have successfully completed the required training.

303.4.2 LESS-LETHAL INSTRUCTOR RESPONSIBILITIES

Less-Lethal Instructors shall control the inventory and issuance of all less-lethal devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced as reasonably practicable.

Every less-lethal device will be periodically inspected by a designated instructor for a particular less-lethal device. The inspection shall be documented.

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303.4.3 USER RESPONSIBILITIES

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

303.5 BATON GUIDELINES

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to officers or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Plainclothes and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignments or at the direction of their supervisors.

303.6 CHEMICAL MUNITION GUIDELINES

Only Staff or the Special Teams Commander may authorize the delivery and use of non-duty-issue chemical munitions for crowd control, crowd dispersal or against barricaded suspects, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, fire and emergency medical services personnel should be alerted or summoned to the scene prior to the deployment of chemical munitions to control any fires and to assist in providing medical aid or gas abatement, if needed.

As with other control devices, OC spray / CS gel and pepper projectiles may be considered for use to bring under control an individual or group of individuals who are engaging in, or are about to engage in, violent behavior. Pepper projectiles and OC spray / CS gel should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of department members or the public.

303.6.1 OC SPRAY / CS GEL

Uniformed members carrying OC spray or CS gel shall carry the device in an appropriate holder on their equipment belt or external vest. Plainclothes and non-field members may carry OC spray or CS gel as authorized, in accordance with the needs of their assignments or at the direction of their supervisors.

303.6.2 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on impact and release the OC powder, the potential exists for the projectiles to inflict injury if they strike the head, neck, spine or groin. Therefore, personnel using a pepper projectile system should not intentionally target those areas, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

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Officers encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A supervisor shall respond to all pepper projectile system incidents where an individual has been hit or exposed to the chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

Each deployment of a pepper projectile system shall be documented. This includes situations where the launcher was directed toward an individual, whether or not the launcher was used. Unintentional discharges shall be promptly reported to a supervisor and documented on the appropriate report form. Only non-incident use of a pepper projectile system, such as training or a product demonstration, is exempt from the reporting requirement.

303.6.3 TREATMENT FOR OC EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those who complain of further severe effects shall be examined by appropriate medical personnel.

303.6.4 TREATMENT FOR CS GEL EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of CS gel should be promptly provided with an appropriate neutralizer to cleanse the affected areas. Those who complain of further severe effects shall be examined by appropriate medical personnel.

303.7 POST-APPLICATION NOTICE

Whenever chemical munitions have been introduced into a residence, building interior, vehicle or other enclosed area, the owners or available occupants should be provided with notice of the possible presence of residue which could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that cleanup will be at the owner's expense. Information regarding how and when the notice was delivered and the individuals notified should be included in related reports.

303.8 KINETIC ENERGY PROJECTILE GUIDELINES

This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, 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.

303.8.1 DEPLOYMENT AND USE

Only department-approved kinetic energy munitions shall be carried and deployed. Approved munitions may be used to compel an individual to cease his/her actions when such munitions present a reasonable option.

Officers are not required or compelled to use approved munitions in lieu of other reasonable tactics if the involved officer determines that deployment of these munitions cannot be done safely. The safety of hostages, innocent persons and officers takes priority over the safety of individuals engaged in criminal or suicidal behavior.

Circumstances appropriate for deployment include, but are not limited to, situations in which:

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- (a) The suspect is believed to be armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm officers or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at officers, other department members and/or other people.
- (d) There is probable cause to believe that the suspect has already committed a crime and is refusing to comply with lawful orders.

303.8.2 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider such factors as:

- (a) Distance and angle to target.
- (b) Type of munitions employed.
- (c) Type and thickness of subject's clothing.
- (d) The subject's proximity to others.
- (e) The location of the subject.
- (f) Whether the subject's actions dictate the need for an immediate response and the use of less-lethal devices appears appropriate.

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other officers and individuals that the device is being deployed.

Officers should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, officers are not restricted solely to use according to manufacturer recommendations. Each situation must be evaluated on the totality of circumstances at the time of deployment.

The need to immediately incapacitate the suspect must be weighed against the risk of causing serious injury or death. The head, neck, and groin area should not be intentionally targeted, except when the officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the officer or others.

303.8.3 SAFETY PROCEDURES

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Officers will inspect shotguns and projectiles at the beginning of each shift to ensure that the shotguns are in proper working order and the projectiles are of the approved type and appear to be free from defects.

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When they are not deployed, shotguns will be unloaded and properly and securely stored in police department vehicles. When deploying a kinetic energy projectile shotgun, officers shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

303.9 TRAINING FOR CONTROL DEVICES

The Training Sergeant shall ensure that those members who are authorized to carry a less-lethal device have been properly trained and certified to carry the specific less-lethal device and are retrained or recertified as necessary.

- (a) Proficiency training shall be monitored and documented by a certified less-lethal device weapons or tactics instructor.
- (b) All training and proficiency for less-lethal devices will be documented in the member's training file.
- (c) Members who fail to demonstrate proficiency with the less-lethal device or knowledge of the Use of Force Policy will be provided remedial training. If a member cannot demonstrate proficiency with a less-lethal device or knowledge of the Use of Force Policy after remedial training, the member will be restricted from carrying the less-lethal device and may be subject to discipline.

303.10 REPORTING USE OF CONTROL DEVICES

Any application of a less-lethal device shall be documented in the related incident report and reported pursuant to the Use of Force Policy.