

	PALACIOS POLICE DEPARTMENT	
	Policy 6.3 Less-than-Lethal Weapons	
	Effective Date: 1/04/2021	Replaces: 02/07/2006
	Approved: <i>Milton Rivera</i> Milton Rivera, Chief of Police	
Reference: 3.04		

I. POLICY

In the interest of public safety, the department provides officers with a range of less-than-lethal options. The department's policy intends to ensure that officers are properly trained in the use of non-lethal and less-than-lethal weapons, and that they will adhere to the department's policy for 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 if they have not received training and been qualified. Officers will carry only those non-lethal and less-than-lethal weapons that have been approved by the department. (TBP: 3.04)

II. PURPOSE

The purpose of this policy is to establish procedures governing the issuance, training, care and maintenance, and proper use of non-lethal and less-than-lethal weapons as well as the standards that officers must meet to qualify for carrying and using such weapons.

III. GENERAL PROCEDURES

A. Approved Weapons

1. Non-lethal and less-than-lethal weapons currently approved by the department include:
 - a. ASP baton (personal issue)
 - b. Pepper spray (personal issue)
 - c. Conducted energy device (CED) (duty issue)
2. Based on the needs of the agency, the Chief of Police determines which non-lethal or less-than-lethal weapons will be used by the department.
3. Officers will not carry or use any weapon that has not been approved by the Chief of Police.

4. Officers will not carry or use any weapon that they have not been qualified for by the department.

B. Security of weapons

1. Officers are responsible for the care and security of departmental weapons issued to them.
2. Officers shall make a written report of any weapon loss or malfunction to the Chief of Police via the armorer or supervisor.
3. Officers shall not use a weapon after it has malfunctioned until it has been repaired and approved for use by 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. Any modification or alteration shall be in accordance with the manufacturer's recommendation.
3. Officers are responsible for cleaning and maintenance of the non-lethal or less-than-lethal weapons issued to them.
4. All non-lethal or less-than-lethal weapons shall be plainly distinguishable from lethal weapons.

D. Weapon inspections

1. Officers shall inspect issued weapons at the beginning of each duty assignment to ensure that they are in proper working order.
2. Supervisors shall inspect issued weapons at least monthly and shall document the inspections in a memorandum to the Chief of Police indicating which officers' weapons were inspected and the results of the inspection.
3. Weapons that fail inspection shall be returned to the armorer and not reissued to the officer until repairs are made.

IV. QUALIFICATION REQUIREMENTS

A. Required instruction and qualification

1. All department personnel shall receive training with any non-lethal and less-than-lethal weapons that they will carry.
2. 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.
3. Tactical considerations shall be a part of this training.
4. Officers will receive training and demonstrate proficiency (qualify) at least annually on all departmental non-lethal or less-than-lethal weapons systems.

Failure to qualify with a non-lethal or less-than-lethal weapons will be cause for remedial training. The officer will not carry or utilize the non-qualifying weapon until properly trained and qualified. (TBP: 3.04)

5. Instructors for any non-lethal or less-than-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 or armorer shall be in charge at all times when officers are qualifying with non-lethal or less-than-lethal weapons.
2. The armorer will maintain records of each officer's qualifications with non-lethal and less-than-lethal weapons including:
 - a. The officer's name and identification number
 - b. The date of qualification and the name of the weapon system.

V. ASP BATON

- A. The department authorizes the carrying and use of the ASP 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, brass knuckles, slapjacks, nunchaku, and similar sticks.
- B. Flashlights carried by officers are not to be used as striking instruments, unless and to the degree that, the officer reasonably believes its use is immediately necessary to protect the officer from injury.
- C. Officers who carry the ASP 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 ASP should not be used to strike handcuffed individuals or to threaten or intimidate people.
 2. Officers shall not raise the ASP above the head to strike a blow to a person's head.
- D. All uses of the ASP 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 shall be required to qualify for and to 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 in the following circumstances:
 - a. When verbal dialogue has failed to bring about the subject’s compliance
 - b. When the subject is actively resisting or has signaled his/her 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, which is between 2 and 10 feet, depending on the circumstances.
 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.
 3. 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 the suspect does not respond sufficiently to the spray and cannot otherwise be subdued.

4. 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.
5. Suspects who have been sprayed shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody.
6. Officers should provide assurance to suspects who have been sprayed that the effects are temporary and encourage them to relax.
7. 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.
8. 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.
2. Replacements for damaged, inoperable, or empty devices are the responsibility of officers to whom they are issued.
3. Replacements of OC spray canisters shall occur when the canister is less than half full, which can be determined by weighing the canister.
4. OC canisters shall be inspected and weighed at the firing range during firearms qualification. A record of the results of this inspection and weighing shall be maintained by the appropriate agency authority.
5. Unexplained depletion of OC from any canister issued to an officer shall require an investigation and written report by the officer's supervisor to the commanding officer.

VII. CONDUCTED ENERGY DEVICE

A. Conducted Energy Device

1. A conducted energy device (CED) is used to electrically disrupt muscular control. It allows officers to quickly subdue a resisting subject without having to resort to the use of deadly force.
2. As with any other weapon, precautions must be observed in the use of CEDs. Any subject who has been controlled with the CED must be monitored for any medical problems.
3. The duties of supervisors of officers issued the CED include active supervision, maintaining managerial controls, and ensuring that officers are in 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 CED shall be certified and allowed to carry the CED.
2. All training and qualification for the CED shall be conducted by certified instructors.
3. It shall be the responsibility of the firearms instructor to train and certify all eligible officers on the proper techniques for using the CED.
4. The firearms instructor shall be responsible for compiling and analyzing data from incidents involving the use of the CED to identify training related needs and issues.
5. In order to maintain proficiency in the use of the CED, all officers certified to carry the weapon shall receive mandatory in-service training at least annually.

C. Carrying the CED

1. Certified officers shall carry the CED on their duty belts.
2. The CED shall never be left unsecured.
3. Only holsters approved by the training unit will be utilized.
4. The CED shall always be carried on the side opposite the duty handgun.
5. Personnel issued the CED shall be responsible for the proper maintenance and care of the weapon. This shall include periodically checking battery life and the expiration date of air cartridges, wiping away dirt and dust, and insuring the rubber stopper is secured on the data port.

D. Authorized Use of the CED

1. The CED 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.

2. The act of verbal non-compliance shall not justify the use of the CED weapon.
 3. The CED 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. Use of the CED is strictly prohibited under the following circumstances.
- a. When flammable gases or liquids are known to be in close proximity to the subject.
 - b. One at a time: No more than one officer at a time should activate a CED against any person.
 - 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 higher risk populations unless the situation would justify a high level of force, including deadly force, and the use of the CED is an effort to avoid using the higher level of force. Higher risk populations refer to visibly pregnant females; young children or obvious juveniles; the visibly frail or infirm; elderly (over 65); those who appear to weigh less than 100 pounds. (This requirement is promulgated out of an abundance of caution as there is no scientific evidence to suggest that higher risk populations have been clinically established to be at greater risk from CED deployment than the general population.)
 - e. 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 confined to a wheelchair unless it is objectively clear that CED is needed to prevent serious injury to the individual 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.
 - i. On persons known to be wearing pacemakers or other biomedical devices sensitive to electrical current.
 - j. On a person known to have a heart condition.

F. CED Deployment

1. Prior to deploying the CED, whenever reasonable and practical, verbal warnings shall be issued to the subject, which will allow the subject the opportunity to comply with the officer's commands.

2. In situations where CED use is a possibility, officers should consider requesting EMS before use.
3. Prior to deploying the CED, the deploying officer shall announce the word “CED” or “Taser” (a verbal notification consistent with the training received by the officer deploying the weapon) to alert others of the impending use of the weapon.
4. “Clear” shall be announced by the deploying officer subsequent to the use of the CED and prior to affecting the arrest, so as to alert others that the weapon is no longer being deployed.
5. When activating a CED, 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.
6. Officers should consider that CED exposure lasting longer than 15 seconds (whether due to continuous or multiple cycles) may increase risk of death or serious bodily injury.
7. Applications of more than 15 seconds should be weighed against other force options.
8. Officers will be particularly alert for medical distress of the subject.
9. 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.
10. The CED direct contact 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 ineffective.
11. The CED shall not be used in any manner that constitutes torture or torment.
12. It shall not be used to elicit statements, awaken an intoxicated subject, or punish any individual.

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. Medical Monitoring. Emergency medical services (EMS) shall be requested to respond to all instances where the CED has been deployed. The requesting officer shall monitor the subject until EMS personnel have arrived.
3. Supervisor Response. The on-duty supervisor or command officer will immediately respond to the scene of any CED use. The supervisor will review the circumstances of the use and conduct a preliminary investigation.
4. Removal of Probes. CED probes shall be removed as soon as possible. CED probes that are imbedded in a subject's skin (as opposed to just clothing)

shall be removed only by EMS personnel, other medical personnel, or police personnel who are trained in the removal of the probes.

5. Police personnel shall not remove CED probes that have struck a subject's head, throat, groin, or any other sensitive area.
6. A CED probe that has penetrated a person's skin shall be considered a biological hazard and shall be handled with the appropriate care.
7. All persons who have been subjected to a CED activation should be monitored regularly while in police custody even if they received medical care.
8. Anyone subject to CED 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 CED 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 CED by an officer.
2. The supervisor responding to the scene shall conduct an immediate preliminary investigation that should include the following:
 - a. Location and interview of witnesses (including other officers)
 - b. Photographs of subject and officer injuries;
 - c. Photographs of cartridges/darts;
 - d. Collection of CED cartridges, darts/prongs, data downloads, car video, body camera video, confetti ID tags, and copies of the device data download.
3. Photographs of the subject shall be taken in all instances involving a subject who is injured or complains of being injured as a result of the use of the CED. Photographs should depict overall condition of the suspect, any injuries, and the locations where the probes made contact. If there is no injury, taking photographs is discretionary.
4. All CED deployments or discharges, including test firings, shall be recorded in a CED log. A supervisor must sign the CED log verifying that the information contained therein is accurate. The presence of a supervisor during testing is not required.
5. Expended CED cartridges shall be submitted to the property unit as evidence. After showing the property clerk a completed CED report signed by a supervisor, the officer shall be provided with a replacement cartridge.
6. The Chief of Police may request an outside investigation by the sheriff's department or Department of Public Safety when any of the following factors are involved:
 - a. A subject experiences death or serious injury;
 - b. A person experiences prolonged CED activation;
 - c. The CED appears to have been used in a punitive or abusive manner;
 - d. There appears to be a substantial deviation from training;

- e. A person in a high-risk population category has been subjected to activation (see list above)
- f. Any other activation as determined by a supervisor.

I. Inspection

Supervisors shall, on a monthly basis, inspect their officer's CED 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 the Chief of Police explaining the circumstances surrounding the discharge.

J. General Considerations

1. Officers should be aware that multiple activations and continuous cycling of a CED 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 CED 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 CED cartridges have experienced firing problems in extremely cold weather.

K. Defense Against CED Use

1. When a subject is armed with a CED and attacks or threatens to attack a police officer, the officer may defend himself when he/she 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.