



## DEPARTMENT POLICY MANUAL STANDING ORDER

AG REVIEW BY:	ORIGINATION DATE: <b>03/24/20</b>	APPROVED BY: <b>George Togliatti, Director</b> <i>Original Signature on File</i>
REFERENCES:	DATE EFFECTIVE: <b>03/24/20</b>	SUBJECT: <b>Less Lethal Shotguns</b>
PROCESSED BY: Director's office	REVISION DATE:	STANDING ORDER NUMBER: <b>03/024/20</b>

### **A. PURPOSE:**

This policy provides guidelines for the issuance and use of less lethal shotguns.

### **B. POLICY:**

The less lethal shotgun is intended to control or temporarily incapacitate a violent or potentially violent individual, while minimizing risk of serious injury. A less lethal shotgun round may be deployed from a safe, stand-off distance for officers. The appropriate use of such a weapon should result in fewer serious injuries to officers and suspects.

### **C. DEFINITIONS:**

**Less Lethal Shotgun** – A shotgun that discharges a projectile such as a bean bag, rubber ball, or chemical irritants to deliver an impact that controls or temporarily incapacitates a violent or potentially violent individual to deter further resistance through impact, pain compliance, or temporary disablement, but is less likely to cause death or permanent, irreversible injury.

**Physical Resistance** – The act of resisting lawful commands or physical guidance from a Peace Officer by pushing, pulling, tensing, bracing, running away, or any similar behavior.

### **D. PROCEDURES:**

#### **1. ISSUANCE OF LESS LETHAL SHOTGUNS**

Only members who have successfully completed Department approved training and have qualified on a Department approved course of fire may deploy the less lethal shotgun.

When not in use, the less lethal shotgun shall be secured in an approved locking mount.

All less lethal shotguns shall be clearly and distinctly marked to differentiate them from lethal shotguns. This will be accomplished by coloring the stock and fore end of the weapons with a bright and easily distinguished orange color.

When loading or prior to deploying the less lethal shotgun, an officer shall visually inspect the munitions to ensure that conventional/lethal ammunition is/has not being loaded into the shotgun.

Officers shall be responsible for ensuring that their issued less lethal shotgun is properly maintained and in good working order.

## **2. VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the less lethal shotgun 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:

- a. Provide the individual with a reasonable opportunity to voluntarily comply.
- b. Provide other officers and individuals with a warning that the less lethal shotgun may be deployed.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the less lethal shotgun in the related report.

## **3. FACTORS TO DETERMINE REASONABLENESS OF FORCE**

The use of the less lethal shotgun is likely to cause intense, but momentary pain. A desire to quickly resolve a potentially dangerous situation is not the type of interest, standing alone, that justifies the use of the less lethal shotgun. The officer should consider whether the suspect poses an immediate threat to the safety of officer or others. As such, officers should carefully consider and balance the totality of circumstances available prior to using the less lethal shotgun including, but not limited to, the following factors:

- a. Immediacy and severity of the threat to officers and others.
- b. The conduct of the individual being confronted, as reasonably perceived by the officer at the time.
- c. Officer/subject factors (i.e., age, size, relative strength, skill level, injury/exhaustion, number of officers vs. subjects).
- d. The effects of drugs or alcohol.
- e. Subject's apparent mental state or capacity.
- f. Proximity of weapons or dangerous improvised devices.
- g. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- h. The availability of other options and their possible effectiveness.
- i. Seriousness of the suspected offense or the reason for contact with the individual.
- j. Training and experience of the officer.
- k. Potential for injury to the officers, suspects and others.

- l. Whether the subject appears to be resisting, attempting to evade arrest by flight or is attacking the officer.
- m. The risk and reasonably foreseeable consequences of escape.
- n. The apparent need for immediate control of the subject or a prompt resolution of the situation.
- o. Whether the conduct of the individual being confronted no longer reasonably appears to pose a threat to the officers or others.
- p. Prior contacts with the subject or awareness of any propensity for violence.
- q. Any other exigent circumstances.

#### **4. DEPLOYMENT AND USE**

Authorized personnel may use the less lethal shotgun when circumstances known to the officer at the time indicate that such application is reasonable to control a person in any of the following circumstances:

- a. The subject is violent or physically resisting.
- b. The subject who, by words or action, has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm officers, him/herself or others.
- c. The suspect is armed with a weapon such as a bottle, pipe, knife or rock and the tactical circumstances allow for the safe application of the less lethal shotgun.
- d. The subject is engaged in riotous behavior such as, but not limited to, throwing rocks, bottles or other dangerous projectiles at people and/or officers.
- e. The subject has made credible threats to harm him/herself.
- f. When practicable, the officer should give a verbal warning of the intended use of the less lethal shotgun followed by a reasonable opportunity to voluntarily comply.
- g. The officer must be able to articulate a reasonable belief that other available options appeared ineffective, impractical or would have presented a greater danger to the officer, the subject or others.
- h. Absent meeting a condition set forth in any of (a) through (e) above, or a reasonable belief that an individual has committed or threatened to commit a serious or violent offense, mere spontaneous flight from an officer shall not serve as good cause for the use of the less lethal shotgun to apprehend an individual.

##### **1) SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the less lethal shotgun should take into account all facts and circumstances known to an officer at the time and the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes the need to control the individual outweighs the risk of using the device. This includes:

- a) Individual known or apparently pregnant.
- b) Elderly individuals or obvious juveniles.

- c) Individuals with obvious low body mass.
- d) Individuals who are handcuffed or otherwise restrained.
- e) Individuals whose position or activity may result in collateral injury (e.g. falls from height, operating vehicles).

The less lethal shotgun shall not be used to torture, psychologically torment, elicit statements or to punish an individual.

## **2) TARGETING CONSIDERATIONS**

Reasonable efforts should be made to target lower center mass or large muscle groups of the lower body such as the thigh or buttocks and to avoid the head, neck, chest and groin. If the dynamics of each situation and officer safety may not permit the officer to limit the application of the less lethal shotgun to a precise target area, officers should monitor the condition of the subject if struck in the head, neck, chest or groin until examined by medical personnel.

Officers shall be aware of their training regarding minimum and effective distances and target areas. Less lethal shotguns should not be used within 5 yards/15 feet unless deadly force is authorized. The head and neck should not be intentionally targeted unless deadly force is authorized.

Officers should not fire less lethal rounds through barriers such as glass or chain link fence, due to the possibility that the round may fragment or be redirected which could strike innocent bystanders.

## **3) REPORT OF USE**

All less lethal shotgun discharges, except training, shall be documented in the related arrest/crime report, the Use of Force Report form 171 and notification made through personal contact to a supervisor (in person, by radio, or by telephone).

Photographs of less lethal projectiles should be taken and any projectiles fired should be collected and submitted by the officer collecting the projectile into evidence for future reference.

Unintentional discharges of a less lethal shotgun will also be documented on the appropriate incident report form, including an explanation of the circumstances surrounding the discharge. Unintentional discharges of a less lethal shotgun will be subject to review by the Unintentional Discharge Review Board (DPS Policy 303) and may subject an employee to discipline.

## **5. MEDICAL TREATMENT**

All subjects who have been struck by a less lethal shotgun round shall be medically assessed prior to booking. Additionally, any such individual who falls

under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- a. A subject who is suspected of being under the influence of controlled substances and/or alcohol and anyone demonstrating extreme agitation, hyperactivity, or excited delirium prior to being struck by a less lethal shotgun round.
- b. A subject who reasonably appears to be in need of, or requests medical attention.
- c. A subject who was struck in a sensitive area (e.g. groin, female breast, face, head).

Subjects who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, imperviousness to pain or who require a protracted physical encounter with multiple officers to bring under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable.

If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio/visual recording is made of the contact or there is an interview with the individual, any refusal should be included if possible.

The transporting officer shall inform any person receiving custody or any person placed in a position of providing care that the individual has been subjected to a less lethal shotgun round.

## **6. TRAINING**

In addition to the initial Department approved training required to carry and/or use a shotgun, each person authorized to deploy a less lethal shotgun shall demonstrate proficiency annually with less lethal rounds. A reassessment of an employee's knowledge and/or practical skill may be required at any time if deemed appropriate by the concerned Division Chief.

The concerned Division Chief shall ensure that all training includes the following:

- a. A review of this policy.
- b. A review of the Use of Force policy.
- c. Target area considerations, to include techniques or options to reduce the intentional application in sensitive areas.
- d. De-escalation techniques.

## **7. SUPERVISOR RESPONSIBILITIES**

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood that the less lethal shotgun may be used. A supervisor shall respond to all incidents where the less lethal shotgun was deployed.