Control Devices and Techniques

303.1 PURPOSE AND SCOPE

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

303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Fargo Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

303.3 CONTROL DEVICE DEFINITIONS

Chemical agent: Substances designed to temporarily incapacitate individuals by causing irritation to the eyes, skin, and mucous membranes.

Less-lethal: A device which has a low probability of causing death or serious injury when used as designed and intended. Less-lethal weapons include 40mm projectiles and batons.

Non-lethal: A device which is not likely and not intended to cause death or serious bodily injury when used as designed and intended. Pepperball delivery systems are considered non-lethal weapons.

Special impact weapon: Any non-lethal or less-lethal weapon system which is designed to fire an impact type projectile.

303.4 ISSUING, CARRYING AND USING CONTROL DEVICES

Control 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.

Only officers who have successfully completed department-approved training in the use of any control device are authorized to carry and use the device.

Control devices may be used when a decision has been made to control, restrain or arrest a subject 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.

When using control devices, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets. Control devices outlined in this policy shall not be used on individuals who are being passively non-compliant.

303.5 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of a special impact weapons or chemical agents should precede its application, unless doing so would endanger the safety of officers, or when it is not practical due to the circumstances. The purpose of the warning is to:

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(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with a warning that the special impact weapon or chemical agent may be deployed.

303.6 PEPPER BALL PROJECTILE SYSTEMS

The pepper ball projectile system is a non-lethal device which uses compressed air to launch projectiles designed to break upon impact and disperse a chemical agent. Glass-breaking projectiles may also be used to break glass in dwellings, but due to the potential for serious injury or death, shall only be used as outlined in this section.

303.6.1 USE OF THE PEPPERBALL PROJECTILE SYSTEM

The Pepperball Projectile System (PPS) may be used to control or gain compliance from a subject who is being violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. Pepperball can also be used to disperse individuals from an area to gain control of a potentially violent situation or to protect property from being damaged.

The PPS may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate such application is reasonably necessary:

(a) The subject is being violent or is physically resisting.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist.

(c) When it is unsafe for an officer to get within contact range of an individual, and it's necessary to control the individual from a distance to effect an arrest or apprehension.

(d) To defend against or to attempt to disarm an individual who is, or potentially could be, armed with a weapon other than a firearm;

(e) To defend the officer or others from a dangerous animal if the animal poses an imminent threat to human safety;

(f) To force a subject from concealment, other than barricaded subjects who are known or suspected to possess a firearm.

(g) To disperse a crowd of people that is potentially violent and engaged in an unlawful assembly that refuses to disperse despite repeated orders to do so.

(h) To defeat barriers such as side windows of vehicles or windows on dwellings when officers have a lawful reason to do so.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the PPS to apprehend an individual.

303.6.2 TACTICAL CONSIDERATIONS FOR PEPPERBALL DEPLOYMENT

(a) Officers encountering a situation that warrants the use of the PPS shall notify a supervisor as soon as practicable.

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(b) The presence of a second officer is highly recommended in the event the officer using the Pepperball launcher encounters lethal resistance.

(c) The number of projectiles fired should be no more than necessary to gain and maintain compliance from the subject(s). Pause and re-assessment should be a tactic used by operators.

(d) Heavy clothing can hinder the effectiveness of the Pepperball rounds. If a subject is wearing heavy clothing, the operator should consider targeting the legs.

(e) Subjects struck with Pepperball rounds often lower their head and turn away from the source of impact. It is important to anticipate this reaction when deploying Pepperball rounds.

303.6.3 PEPPERBALL TARGETING CONSIDERATIONS

(a) Pepperball projectiles should not be targeted towards the head, neck, spine, or groin except when there is a reasonable belief that the suspect poses an imminent threat of serious bodily injury or death towards the officer or others.

(b) Officers should avoid using the Pepperball launcher on persons who reasonably appear to be, or are known to be, young children, elderly, medically infirm, or pregnant. Officers are not prohibited from using the Pepperball launcher on such persons, but use is limited to those exceptional circumstances where the potential benefit of using the Pepperball launcher (i.e., injury reduction) reasonably outweighs the risks and concerns.

(c) Pepperball projectiles may be directed towards the ground or an other surface rather than directly at an individual. This can be an effective tactic if the individual is concealed or in crowd-dispersal situation.

303.6.4 PEPPERBALL GLASS-BREAKING PROJECTILES

Glass-breaking projectiles could potentially cause serious injury or death, an increased care should be exercised when using them. The following precautions shall be followed:

(a) Glass-breaking projectiles may be used to break glass on dwellings with approval of a Shift Commander or if exigent circumstances exist.

(b) Except in situations where deadly force would be authorized pursuant to the Use of Force policy, glass-breaking projectiles shall not be used on any vehicle that may be occupied..

(c) Glass-breaking rounds must not be combined with other types of rounds. Glass-breaking rounds will only be used in a Pepperball magazine or a hopper after emptied of all other types of rounds.

(d) Prior to loading a launcher with any other type of round, the operator must ensure all remaining glass-breaking rounds are cleared from the launcher.

(e) Glass-breaking rounds shall not be targeted directly towards individuals unless deadly force is justified.

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(f) Glass-breaking rounds should be targeted towards the corners of windows rather than center-mass. These rounds should not be targeted towards windshields or large plate-glass windows.

303.7 KINETIC ENERGY PROJECTILE SYSTEM

Kinetic energy projectiles are classified as "less-lethal" because they present a lower likelihood to result in death or serious physical injury when used properly. They may be used in attempts to de-escalate a potentially deadly force situation.

303.7.1 USE OF KINETIC ENERGY PROJECTILES

Only department-approved kinetic energy munitions shall be carried and deployed by those trained in its use. Officers are not required or compelled to use a kinetic energy munition in lieu of other reasonable tactics if the involved officer determines the deployment of these munitions cannot be done safely. The safety of hostages, innocent persons, and officers takes priority over the safety of the subjects engaged in criminal or suicidal behavior.

Kinetic energy projectiles may be used in any of the following circumstances when the officer's perception at the time indicates such application is reasonably necessary to control a person:

(a) The subject is threatening self harm through the use of a visible weapon or other potentially dangerous object, and the tactical circumstances allow for the safe application of a kinetic energy device.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist by using a weapon or dangerous object.

(c) The suspect is engaged in riotous behavior by throwing rocks, bottles or other dangerous projectiles at people and/or officers.

(d) When it is unsafe for an officer to get within contact range of an individual, and it's necessary to attempt control or disarm the individual from a distance to effect an arrest or apprehension.

(e) To defend the officer or others from a dangerous animal if the animal poses an imminent threat to human safety;

(f) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of kinetic energy projectiles to apprehend an individual.

303.7.2 TACTICAL CONSIDERATIONS FOR KINETIC ENERGY PROJECTILES

(a) Officers encountering a situation that warrants the use of a kinetic energy device shall notify a supervisor as soon as practicable.

(b) The presence of a second officer with lethal coverage is highly recommended in the event the officer using the kinetic energy device encounters lethal resistance. The operator of the device should also carry multiple projectiles or have officers with additional special impact weapons in case multiple projectiles are necessary.

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

1. Distance and angle to target.
2. Type of munitions to be used.
3. Type and thickness of subject's clothing.
4. The location of the subject and proximity to others.
5. Whether the subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

(d) 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 upon the totality of circumstances at the time of deployment.

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head an neck 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.

303.7.3 KINETIC ENERGY TARGETING CONSIDERATIONS

(a) Kinetic energy projectiles should not be directed towards the head, chest, neck, spine, or groin except when there is a reasonable belief that the suspect poses an imminent threat of serious bodily injury or death towards the officer or others.

(b) Kinetic energy projectiles should not be used to break vehicle windows unless the need to do so outweighs the potential risk towards any occupants of the vehicle.

(c) Subjects struck with kinetic energy rounds often lower their head and turn away from the source of impact. It is important to anticipate this reaction when deploying additional rounds.

303.8 BATONS

Batons are used primarily for crowd control purposes to move or disperse unruly or riotous crowds, but may also be used for the purpose of delivering strikes or jabs to violent or potentially violent subjects in conformity with this policy and the Use of Force policy.

303.8.1 TACTICAL CONSIDERATIONS FOR BATON USE

A baton shall only be used to subdue violent individuals who present a physical threat to officers or others and are actively engaged in riotous behavior as an individual or as part of a crowd that is potentially violent, engaged in unlawful assembly, and refuses to disperse despite repeated orders to do so and the officer's perception at the time indicates such application is reasonably necessary to subdue, control or move a person or a crowd.

Uniform personnel carrying a baton shall carry the baton in its authorized ring holder provided in each mobile field force go-bag.

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303.8.2 BATON TARGETING CONSIDERATIONS

The need to immediately control a suspect must be weighed against the risk of causing serious bodily 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 the officer 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 assignment or at the direction of their supervisor. The current issued baton is the 26" wooden baton.

303.9 OLEORESIN CAPSICUM (OC) GUIDELINES

Oleoresin Capsicum (OC) is a naturally-occurring substance that can temporarily incapacitate a subject by inducing a burning sensation to the skin and eyes, and a swelling of the mucous membranes when inhaled into the respiratory tract.

303.9.1 USE OF OC

OC in spray form can be used when deemed appropriate and necessary by the officer in the following circumstances:

(a) To bring under control an individual who is engaged in, or is about to engage in violent or resistive behavior.

(b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist.

OC spray should not be used on individuals who are being passively non-compliant.

OC in vapor form can also be used with supervisor approval to disperse or extract potentially violent or concealed individuals from a particular area or dwelling. However, if the individual is known or suspected to be armed with a firearm or is presenting a threat of serious bodily injury towards others in the same area or dwelling, alternative procedures for barricaded subjects should be followed. OC vapor canisters can be safely used indoors or outdoors.

303.10 TEAR GAS AND OTHER CHEMICAL AGENT GUIDELINES

Tear gas and other chemical agents not already addressed in this policy may be used for crowd control, crowd dispersal, or against barricaded suspects based on the circumstances. Only the Shift Commander, Incident Commander, Crowd Management Commander, or Red River SWAT Commander may authorize the delivery and use of tear gas or other chemical agents, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.

When practicable, Fire personnel should be alerted or summoned to the scene prior to the deployment of tear gas to or other chemical agent canisters that are considered pyrotechnic to control any fires and to assist in providing medical aid or gas evacuation if needed.

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303.11 ACTIONS FOLLOWING DISCHARGE OF SPECIAL IMPACT WEAPONS AND DEPLOYMENT OF CHEMICAL AGENTS

(a) A supervisor shall respond to all incidents where a subject has been struck by a baton, a projectile from a Special Impact Weapon or exposed to a chemical agent. The supervisor shall ensure that all notifications and reports are completed as required by the Use of Force Policy.

(b) Persons who have been exposed to any chemical agent should be promptly provided with fresh air and clean water to decontaminate the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

(c) Persons who have been struck by a baton or a projectile fired from a special impact weapon shall be examined and cleared at a medical facility.

(d) Each intentional discharge of a special impact weapon directed towards a subject(s) or animal shall be documented in accordance with the Use of Force policy. Unintentional discharges shall be promptly reported to a supervisor. Only non-incident use of a special impact weapon, such as training and product demonstrations, are exempt from the reporting requirement.

(e) Whenever a chemical agent has been introduced into a residence, building interior, vehicle or other enclosed area, officers shall provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned. Such notice should include advisement that clean-up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

303.12 SUPERVISOR RESPONSIBILITIES

The Crowd Management Team Commander or the SWAT Commander may authorize the carrying of a special impact weapon or chemical agent (excluding officer issued OC canister spray) by selected personnel or members of specialized units who have successfully completed the required training.

The Training and Development Unit (TDU) Lieutenant may authorize the carrying of OC Spray and/or a baton after officers have completed the required training.

303.12.1 USER RESPONSIBILITIES

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

Any damaged, inoperative, outdated or expended devices or munitions, shall be returned to theDepartment Quartermaster for repair or replacement. The member shall also notify a supervisor and forward a memorandum through the chain of command regarding any damaged or inoperable munitions or special weapons.

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Officers shall inspect launchers and projectiles at the beginning of each shift to ensure the launcher is in proper working order and the projectiles are of the approved type and appear to be free of defects.

When not deployed, launchers shall be unloaded and properly secured in a locked police vehicle or in a police building.

303.12.2 EQUIPMENT INVENTORY AND MANAGEMENT

The Department Quartermaster shall control the inventory and issuance of all Special Impact Weapons and chemical agent canisters and shall coordinate with the Crowd Management Team or SWAT team commander to ensure that all damaged, inoperative, outdated or expended devices or munitions are properly disposed of, repaired or replaced.

Every special impact weapon shall be periodically inspected by a trained armorer or by a designated TDU instructor. The inspection shall be documented and forwarded to the Professional Standards Division commander.

303.13 TRAINING

The Training and Development Unit (TDU) Lieutenant shall ensure that all personnel who are authorized to carry a control device as identified in this policy have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices shall be documented in the officer's training file.

(c) Officers who fail to demonstrate proficiency with a control device or knowledge of this agency's Use of Force policy shall be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force policy after remedial training, the officer shall be restricted from carrying the control device and may be subject to discipline.

303.14 REVISION DATE 08/15/2024

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