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## Special Impact Weapons and Chemical Agents

### 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 Response to Resistance Policy.

### 303.3 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).

**Non-lethal:** A device which is not likely and not intended to cause death or serious bodily injury (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

Special impact weapons, projectiles, and chemical agents 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 officers who have successfully completed department-approved training in the use of the special impact weapons or chemical agents referenced below are authorized to carry and use that 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 using special impact weapons and chemical agents, officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### 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. The projectiles typically contain an agent, but certain projectiles, upon senior command officer's approval, may also be used to break glass on vehicles and in dwellings.

##### **303.6.1 USE OF THE PEPPERBALL PROJECTILE SYSTEM**

The Pepperball Projectile System 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 Pepperball system 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 prevent a subject from fleeing from law enforcement in a vehicle, if the vehicle is stationary at the time of deployment of the projectiles.
- (h) 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.
- (i) 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 Pepperball System to apprehend an individual.

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#### 303.6.2 TACTICAL CONSIDERATIONS FOR PEPPERBALL DEPLOYMENT

- (a) Officers encountering a situation that warrants the use of the Pepperball system shall notify a supervisor as soon as practicable.
- (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 can only be used if authorized by a supervisor.
- (b) Glass-breaking 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) Glass-breaking round 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 lethal 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 can be used in an attempt to de-escalate a potentially deadly situation.

##### **303.7.1 USE OF KINETIC ENERGY PROJECTILES**

Only department approved kinetic energy munitions shall be carried and deployed. 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 to harm his/herself 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 on 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 and 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 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.

##### 303.8.1 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.

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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.

### **303.9 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.

### **303.10 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 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 Response to Resistance 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 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 or animal shall be documented in accordance with Policy 300, Response to Resistance. 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 should 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.

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#### **303.11 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.

A Field Services supervisor or the Training Sergeant may authorize the carrying of OC Spray after officers have completed the required training.

##### **303.11.1 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, along with documentation explaining the cause of the damage, shall be returned to the Training Sergeant, a Crowd Management Team supervisor, a SWAT supervisor, or the department Quartermaster for disposition. Damage to City property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

Officers will 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 will be unloaded and properly secured in a locked police vehicle or in a police building.

##### **303.11.2 EQUIPMENT INVENTORY AND MANAGEMENT**

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

Every Special Impact Weapon will be periodically inspected by a trained armorer or by a designated instructor. The inspection shall be documented.

#### **303.12 TRAINING**

The Administrative Lieutenant, the Crowd Management Team Commander, or the SWAT Commander shall ensure that all personnel who are authorized to carry a special impact weapon or chemical agent have been properly trained and certified to carry the specific 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 special impact weapons and chemical agents will be documented in the officer's training file.

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- (c) Officers who fail to demonstrate proficiency with the special impact weapon, chemical agent, or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a device, chemical agent, or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the device or chemical agent, and may be subject to discipline.