

Control Devices

302.1 VERSION

Review Date	Effective Date	Approving Authority
08/11/2020	7/9/18	Eric D. English, Chief of Police

302.2 POLICY AND PURPOSE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy. The Department will issue and train its employees on the Control Devices policy prior to the issuance of the control device. In order to control individuals who are violent or who demonstrate the intent to be violent, the Harrisonburg Police Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

302.3 ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

302.4 DEFINITIONS

Baton- A cylindrical expandable and collapsible metal impact weapon (eg. ASP, 5.11, etc).

Chemical Munitions- Chemical munitions are less lethal tools that can be used to engage dangerous and/or destruct crowds. Chemical munitions are designed to cause "temporary incapacitation and/or sensory irritation". Common types include chemical irritants and smoke munitions delivered as grenades, projectiles (40MM), etc.

Kinetic Energy Impact Systems- provide a less-lethal force alternative when the use of deadly force is not immediately necessary.

Oleoresin Capsicum (O.C.) Aerosol Spray- an organically based less-than-lethal aerosol chemical agent designed to subdue an individual by irritating skin and mucous membranes. The result of contact with the spray is pain and discomfort such that the individual may lose their capacity to resist.

Pepper Ball- Frangible plastic spheres that contain powdered chemical agents (eg. OC)

Pepper Ball Launching System- A unique less-lethal chemical agent delivery system that uses high pressure air launchers to deliver powdered OC from a safe distance.

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302.5 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by officers 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 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 person who is violent or who demonstrates the intent to be violent and the use of the device appears reasonable under the circumstances. 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.

302.6 BATON

A baton can be used to defend an officer or other person from assault, or what the officer reasonably believes to be assaultive behavior while affecting or attempting to affect an arrest or investigative stop, or to prevent an escape from lawful custody.

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.

302.6.1 USE

The baton may be used to strike the subject in designated target areas of the body (i.e. torso, legs, arms). Intentional strikes to the subject's head, kidneys or groin shall be avoided, whenever possible.

The baton may be used to block strikes or attempted strikes initiated by the subject and directed at an officer or other person.

The baton may also be used as a lever to induce sufficient pressure to cause the subject to cease defensive resistance.

Utilization of the baton in a manner constituting a chokehold is prohibited, except when officers reasonably believe there is an imminent threat of serious physical injury or death to an officer or other person and that it is the only reasonable means of protecting an officer and/or other person.

302.7 CHEMICAL MUNITIONS

Chemical munitions may be used for crowd control, crowd dispersal or against barricaded suspects, based on the circumstances. Only the Chief of Police, Patrol Commander, Incident Commander, Special Weapons and Tactics Team Commander, and Civil Disturbance Commander or their designee may authorize the delivery and use of tear gas, and only after

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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 evacuation, if needed.

302.8 OLEORESIN CAPSICUM (OC)

OC can be used to defend an officer or other person from assault, or what the officer reasonably believes to be assaultive behavior while effecting or attempting to effect an arrest or investigative stop, or to prevent an escape from lawful custody.

As with other control devices, OC spray 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 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.

302.8.1 OC SPRAY

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

302.8.2 PEPPER PROJECTILE SYSTEMS

Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Pepper projectile systems will only be operated by those members trained in their use. 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.

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.

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302.8.3 TREATMENT FOR OC/TEAR GAS EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC or tear gas should be promptly provided with clean water to cleanse the affected areas and have medical personnel respond.

302.9 KINETIC ENERGY PROJECTILES

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.

302.9.1 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:

- (a) The suspect is 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 him/herself 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 of violence and is refusing to comply with lawful orders.

302.9.2 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 control 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.

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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 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.

302.9.3 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.

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.

302.10 RESPONSIBILITIES

302.10.1 PATROL COMMANDER RESPONSIBILITIES

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

302.10.2 SUPERVISOR/INSTRUCTOR RESPONSIBILITIES

The supervisor shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

Every control device will be periodically inspected by the supervisor or the designated instructor. The inspection shall be documented.

302.10.3 OFFICER RESPONSIBILITIES

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

Any damaged, inoperative, outdated or expended control devices or munitions, along with documentation explaining the cause of the damage, shall be returned to the supervisor for

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disposition. Documentation shall also be forwarded through the chain of command, when appropriate, explaining the cause of damage.

302.11 TRAINING FOR CONTROL DEVICES

The Training Officer shall ensure that those officers who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified at a minimum every two years.

- (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 will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of the Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of the Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

302.12 REPORTING USE OF CONTROL DEVICES

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