

	DELMAR POLICE DEPARTMENT	
	Policy 6.3 Less-Lethal Weapons	
	Effective Date: 07/01/14	Replaces: 1-18-3, 6.13 (1996 Version)
	Approved: <u>Ivan Barkley</u> Chief of Police	
Reference: DPAC: 1.3.4		

I. POLICY

In the interest of public safety, the department provides officers with a range of less-lethal options. The department's policy ensures that members are properly trained in the use of these tools and the circumstances of their use. Supervisors shall rigorously enforce departmental less-lethal weapons standards.

It is the policy of the Delmar Police Department that all sworn personnel shall demonstrate proficiency with department issued less-lethal weapons they are authorized and certified to carry. Officers shall not carry or use any less-lethal weapon where they have not received training and been certified.

II. PURPOSE

To establish policy and procedures governing the issuance, training, care, maintenance, and qualification of less-lethal weapons.

III. GENERAL PROCEDURES

A. Approved Weapons (DPAC: 1.3.4)

1. Less-lethal weapons currently approved and issued by the department include:
 - a. Expandable Baton (ASP) (Dept. issue)
 - b. OC/Pepper Spray (Dept. issue)
 - c. X26 / X2 Taser/Conducted Electrical Weapon (CEW) (Dept. issue)
2. Department issued less-lethal weapons are determined by the Chief of Police based on the needs of the agency. Officers will not carry or use any less-lethal weapon not issued by the department and for which they are not qualified or approved by the department to use.

B. Security of less-lethal weapons

1. Officers are responsible for the care and security of department issued less-lethal weapons issued to them. Officers shall report any less-lethal weapon loss or malfunction to the Chief of Police via the chain of command.

C. Modification and maintenance of less-lethal weapons

1. Department issued less-lethal weapons shall not be modified or altered without written approval of the Chief of Police.
2. Officers are responsible for cleaning and maintenance of less-lethal weapons that are issued to them.

D. Less-Lethal Weapon inspections

1. Officers shall inspect issued less-lethal weapons at the beginning of each duty assignment to ensure they are in proper working order.
2. The Department Armorer shall inspect issued less-lethal weapons at least bi-annually and shall document the inspections on the less-lethal inspection form indicating the officers and less-lethal weapons inspected and the results of the inspection.

IV. QUALIFICATION REQUIREMENTS

A. Required instruction and qualification

1. All department personnel shall receive training with any less-lethal weapons that they will carry. Training shall cover the mechanics of the weapon, sound safety practices, and departmental policy governing the use of the weapon and the response to resistance. Tactical considerations shall be a part of this training.
2. Officers will receive training and demonstrate proficiency (qualify) at least biennially on all department issued less-lethal weapons systems they are authorized to carry.
3. Instructors for any less-lethal weapon where the manufacturer recommends the instructors be certified before providing initial or refresher training shall have current certification before providing the said training.

B. Qualification rules

1. The Administrative Commander will maintain records of each officer's qualifications with less-lethal weapons including:
 - a. The officer's name and identification number
 - b. The date of qualification and less-lethal weapon system qualified.

V. EXPANDABLE BATON

A. Authorization

1. The department authorizes the carrying and use of the expandable 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, slapjacks, nunchaku and similar sticks, and brass knuckles. Flashlights carried by officers should not to be used as striking instruments, except as a last resort to protect the officer or another person from injury.
2. Officers who are certified in the use of the expandable baton shall carry only the authorized expandable baton. Officers shall be trained and demonstrate proficiency in its use.

B. Usage Criteria (DPAC: 1.3.4)

1. 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.
2. The expandable baton should not be used to strike handcuffed individuals or to threaten or intimidate people.
3. Officers should not raise the expandable baton above the head to strike a blow to a person's head except in situations where lethal force may be justified.
4. All uses of the expandable baton will be immediately reported to a supervisor and documented in an incident report as well as a Response to Resistance Report.

C. Reporting and Investigation

1. A Response to Resistance Report shall be completed on all expandable baton incidents. Personnel must clearly articulate the reasons for the use of the expandable baton in the Incident or Case report.
2. The supervisor responding to the scene shall conduct an immediate preliminary investigation which should include:

- a. Location and interview of witnesses (including other officers);
 - b. Photographs of subject and officer injuries;
 - c. Ensure a written report and Response to Resistance Report are prepared prior to the deploying officer being excused from duty;
3. The Force Review Board may be convened to review any officer Response to Resistance and shall always review response to resistance incidents when any of the following factors are involved:
 - a. A subject experiences death or serious injury;
 - b. There appears to be a substantial deviation from training.

VI. OC PEPPER SPRAY

A. Authorization

1. Only officers who have completed the prescribed course of instruction on the use of OC Pepper Spray are authorized to carry department issued OC Pepper Spray.
2. Officers whose normal duties/assignments may require them to make arrests or supervise arrestees should carry departmentally authorized OC Pepper Spray while on duty.
3. Uniformed officers shall carry only Department issued OC Pepper Spray canisters in the prescribed manner on the duty belt. Non-uniformed officers may carry OC Pepper Spray in alternative devices as authorized by the agency.

B. Usage Criteria (DPAC: 1.3.4)

1. OC Pepper Spray is considered a response to resistance and shall be employed in a manner consistent with this agency's response to resistance policy.
2. OC Pepper Spray may be used when:
 - a. verbal dialogue has failed to bring about the subject's compliance, and
 - b. the subject is actively resisting or has signaled his 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 Pepper Spray against a suspect.
4. Once a suspect is incapacitated or restrained, use of OC Pepper Spray is no longer justified.

C. Usage Procedures

1. Whenever possible, officers should be upwind from the suspect before using OC Pepper Spray and should avoid entering the spray area.
2. An officer should maintain a safe distance from the suspect.
3. Spray burst(s) of between one and three seconds should be directed at the suspect's eyes, nose and mouth.
4. Use of OC Pepper Spray should be avoided, if possible, under conditions where it may affect innocent bystanders or contaminate a public facility.

D. Effects of OC Pepper Spray and Officer Response

1. Within several seconds of being exposed to OC Pepper Spray, 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 Pepper Spray vary among individuals. Therefore, all suspects shall be handcuffed as soon as possible after being exposed. 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 OC Pepper Spray and cannot otherwise be subdued.
3. Immediately after exposing to OC Pepper Spray and handcuffing 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. **Individuals exposed to OC Pepper Spray shall not be left in a prone position in order to avoid positional asphyxiation.** Upon observing these or other medical problems or if the suspect requests medical assistance, the officer shall immediately summon emergency medical services.
4. Suspects that have been exposed to OC Pepper Spray shall be monitored continuously for indications of medical problems and shall not be left alone while in police custody.

5. Officers should provide assurance to suspects who have been exposed to OC Pepper Spray that the effects are temporary and encourage them to relax.
6. Air will normally begin reducing the effects of OC Pepper Spray within 15 minutes of exposure. However, once the suspect has been restrained, officers shall assist him by rinsing and drying the exposed area.
7. Assistance shall be offered to any individual(s) accidentally exposed to OC Pepper Spray who feel the effects of the agent.

E. Reporting Procedures

1. Accidental discharges as well as intentional uses of OC Pepper Spray against an individual in an enforcement capacity shall be reported to the officer's immediate supervisor as soon as possible.
2. A response to resistance report shall be completed following all discharges of OC Pepper Spray except during testing, training, malfunction or accidental discharge not exposing an individual to the effects of OC Pepper Spray.
3. The supervisor responding to the scene shall conduct an immediate preliminary investigation which should include:
 - a. Location and interview of witnesses (including other officers);
 - b. Photographs of subject and officer injuries;
 - c. Ensure a written report and Response to Resistance Report are prepared prior to the deploying officer being excused from duty;
4. The Force Review Board may be convened to review any Officer Response to Resistance and shall always review response to resistance incidents when any of the following factors are involved:
 - a. A subject experiences death or serious injury;
 - b. There appears to be a substantial deviation from training.

F. Replacement

1. All OC Pepper Spray devices shall be maintained in an operational and charged state by assigned personnel. Replacements for damaged, inoperable or empty devices are the responsibility of officers to whom they are issued.
2. Replacements of OC Pepper Spray devices shall occur when the unit is less than half full, or when testing reveals the loss of propellant.

3. OC Pepper Spray devices shall be inspected bi-annually at the firing range during firearms qualification. A record of this fact shall be maintained by the Administrative Commander.

VII. X26 / X2 TASER/CONDUCTED ELECTRICAL WEAPON

A. X26 / X2 Taser/Conducted Electrical Weapon

1. The X26 / X2 Advanced Taser is an conducted electrical weapon (CEW) designed to conduct energy to affect the sensory and motor functions of the central nervous system.
2. There are precautions that must be observed as in the use of any weapon and it is our responsibility to monitor a subject who has been controlled with the CEW for any medical problems.
3. The CEW provides an option of force that can help prevent situations from escalating to deadly force levels. The use of the CEW may reduce the need for physical force or other force options by officers which could result in serious bodily injury or, possibly death to the officer, the suspect or a third party.
4. It shall be the responsibility of supervisory officers issued the CEW to ensure proper supervision, managerial controls, and compliance with this order.
5. A log record will be maintained by the CEW Instructor to document each CEW issued.

B. Training and Certification Procedures

1. Only personnel, who successfully complete the department's training course and demonstrate the required proficiency in the use of the CEW, shall be certified and allowed to carry the department issued CEW. All training and certification for the CEW shall be conducted by certified instructors. The training course will consist of but is not limited to:
 - a. Instruction in the response to resistance.
 - b. CEW effects on the human body.
 - c. Safe handling of the CEW.
 - d. Proper use during deployment.
 - e. Post-exposure care of the suspect.

2. It shall be the responsibility of the CEW Instructor to train and certify all eligible officers on the proper techniques and use of the CEW. Additionally, the CEW Instructor shall be responsible for compiling and analyzing data from incidents involving the use of the CEW to identify training related needs and issues.
3. In order to maintain proficiency in the use of the CEW, all officers certified to carry the weapon shall receive mandatory in-service training annually.

C. Carrying the CEW

1. Certified officers shall carry the CEW on their duty belts in an approved department issued holster. The CEW shall never be left unsecured. Only holsters approved and issued by the department will be utilized. The CEW shall always be carried on the support side opposite of the duty handgun in a cross draw position.
2. Personnel issued the CEW shall be responsible for the proper maintenance and care of the weapon.
 - a. This shall include periodically checking battery life and expiration date of the cartridge; ensure the cartridge doors are free of debris and not damaged. Officers shall also conduct a spark test prior to beginning their tour of duty to ensure functionality of the CEW. Officers will notify a supervisor if any damage to the CEW or the cartridge is discovered.
 - b. CEW cartridges shall not be carried loosely in pockets or in similar fashion as static electricity may cause discharge and serious injury.

D. Authorized Use of the CEW (DPAC: 1.3.4)

1. The CEW may be utilized when other less-lethal force options have been ineffective or when it reasonably appears that such options will be ineffective in subduing the subject.
2. Examples of situations in which the CEW may be used include, but are not limited to, the following:
 - a. Dealing with a mentally ill subject who is perceived to be violent;
 - b. Warrant service where the subject is perceived to be violent;
 - c. Violent persons under the influence of drugs and/or alcohol;
 - d. Persons expressing the intent and having the means to commit suicide;

- e. When deemed a reasonable alternative to lesser force options that will likely be ineffective or greater force options may be inappropriate given objective circumstances;
- f. Vicious animals;

E. Usage Restrictions (DPAC: 1.3.4)

1. The CEW shall not be used in the following circumstances:
 - a. When an officer is confronted with deadly force, the officer should not consider using the CEW or other less-lethal weapon options unless the officer is backed up with a deadly force option.
 - b. When the deploying officer cannot, for safety or other reasons, approach the suspect with the effective range of the CEW.
 - c. In proximity to flammable liquids, gases, blasting materials or any other highly combustible materials that may be ignited by use of the CEW, including but not limited to any suspect who may have been contaminated with combustible liquids.
 - d. When it is reasonable to believe that incapacitation of the suspect may result in serious injury or death;
 - e. In conjunction with another CEW or any other electrical restraint device.
2. In non-lethal force situations, when possible, officers should avoid using the CEW on:
 - a. Persons in wheelchairs or in control of a vehicle;
 - b. Pregnant Women;
 - c. People with known heart problems;
 - d. People with apparent debilitating illness or the elderly;
 - e. Children or those persons under eighty (80) pounds;
 - f. Individuals with known neuromuscular disorders such as muscular sclerosis, muscular dystrophy, or epilepsy, or;

- g. Persons known to be wearing pacemakers or other known biomedical devices sensitive to electrical current.

F. CEW Deployment

1. Prior to deploying the CEW, whenever reasonable and practical, verbal warnings shall be issued to the subject, to allow the subject the opportunity to comply with the officer's commands.
2. Prior to deploying the CEW, the deploying officer shall announce the word "TASER" to alert others of the impending use of the weapon.
3. When activating an CEW, 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. Officers will be particularly alert for medical distress of the subject.
4. Officers should make every effort to avoid firing darts or directing the drive stun method at a subject's head, neck, front chest area or genitalia. Preferred targeting is the center mass of the subject's back.
5. The CEW drive stun method may be utilized as an alternative deployment method, when one or 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.

G. Post Deployment

1. 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. Emergency Medical Services shall be requested to respond to all instances where the CEW has been deployed. The requesting officer shall monitor the subject until EMS personnel have arrived.
3. The on-duty supervisor will immediately respond to the scene of any CEW deployment. The supervisor will review the circumstances of the use and conduct a preliminary investigation.
4. CEW probes should be removed as soon as possible. CEW probes that are imbedded in a subject's head, neck, hands, feet, female breast or genitalia must be stabilized in place and evaluated by a physician at an appropriate medical facility. CEW probes that are embedded in a subject's skin (as opposed to just

clothing) shall only be removed by a Tactical EMS Provider as long as the probe is not lodged in a location listed above. All subjects receiving CEW intervention in Maryland will need to be transported to the nearest Emergency Medical Facility for assessment. CEW probes that have penetrated a person's skin will be treated as a biohazard sharp instrument. To prevent accidental secondary contamination, probes will be placed point down in the expended cartridge.

5. Photographs will be taken of the probe impact sites along with any other related injuries. Photographs will not be taken of the female breast or the male/female genital areas.
6. The responding supervisor and/or deploying officer shall collect the expended cartridge, probes and as many of the AFIDS as possible and secure them as evidence. The deployment data will be downloaded by an officer authorized to retrieve the data from the CEW.

H. Reporting and Investigation

1. A Response to Resistance Report shall be completed on all CEW deployments. Personnel must clearly articulate the reasons for the initial use and all subsequent cycle(s) in the Incident or Case report.
2. The supervisor responding to the scene shall conduct an immediate preliminary investigation which should include:
 - a. Location and interview of witnesses (including other officers);
 - b. Photographs of subject and officer injuries;
 - c. Photographs of cartridges/darts;
 - d. Collection of CEW, cartridges, darts/prongs, and AFID.
 - e. Ensure a written report and Response to Resistance Report are prepared prior to the deploying officer being excused from duty.
3. The Force Review Board may be convened to review any Officer Response to Resistance and shall always review response to resistance incidents when any of the following factors are involved:
 - a. A subject experiences death or serious injury;
 - b. A person experiences prolonged CEW activation;
 - c. The CEW appears to have been used in a punitive or abusive manner;

- d. There appears to be a substantial deviation from training; and
- e. A person in an at-risk category has been subjected to activation (e.g., young children; persons who are elderly/frail, pregnant women, and any other activation as determined by a supervisor).

I. Inspection

- 1. The Patrol Commander shall, on a quarterly basis, inspect officer's CEW's to ensure the weapon is in working order and properly maintained. The Patrol Commander will forward a copy of this inspection to the CEW Instructor.

J. General Consideration

- 1. Officers should be aware that multiple activations and continuous cycling of an CEW 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 CEW 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 with symptoms associated with excited delirium.