



King County

Office of Law Enforcement Oversight

September 13, 2019

TO: Sheriff Mitzi Johanknecht, King County Sheriff's Office (KCSO)

FR: Deborah Jacobs, Director, Office of Law Enforcement Oversight (OLEO)

RE: Less Lethal Weapons, General Orders Manual (GOM) 6.04.000

OLEO has reviewed KCSO's proposed revisions to GOM 6.04.000 on Less Lethal Weapons (included in this memo on starting on page 3). Our recommendations are as follows:

Proposed revision to GOM 6.04.030, Using the TASER CEW

Revise the sentence for item number one to state, "When safe and feasible, members shall provide the subject with a warning" followed by examples of recommended warnings. This helps to make clear that a warning is required only when safe and feasible.

Additionally, OLEO recommends that the the policy provide examples of clear directions or commands such as "Police [or Sheriff's Office], stop or you will be Tased" or "Police [or Sheriff's Office], put down the knife or you will be Tased." These types of warnings let people know what is expected of them and is consistent with the suggested warnings under GOM 6.04.065, Using the Less Lethal Shotgun. The current policy language "Taser, Taser, Taser" is not sufficient because it does not provide the person with direction on how they need to act in order to avoid being Tased.

Add a bullet under item number one to state:

- Members shall clearly articulate why providing a warning was not safe or feasible.

Proposed revision to GOM 6.04.070, Less Lethal Shotgun Post Application Procedures

Instead of the proposed revision to item number two, the policy should reference reporting/investigation procedures under GOM 6.01, which already requires that photographs be taken, among other investigative steps.

If choosing to keep the KCSO proposed revision regarding photographs, OLEO recommends referencing GOM 6.01 and adding to the following to the sentence (in bold): "Photographs shall be taken of any injuries or impact areas **on the subject . . .**"

Proposed revision to GOM 6.04.090, When to Use Pepper Spray

Revise item number one to state, “When safe and feasible, members shall give warnings before application.”

Add to this policy that “Members shall clearly articulate the reasons for each separate application of pepper spray.”

Proposed revision to GOM 6.04.100, Pepper Spray – Post Application Procedures

Revise item number three to state “Members shall offer to call medical aid whenever a subject is pepper sprayed.” KCSO’s proposed revision based on calling medical aid for “extreme reactions” potentially leaves room for wide interpretation, and that interpretation might be contrary to GOM 6.00.015, Use of Force and Medical Treatment.

Proposed revision to GOM 6.04.105, Carrying/Operating Pepper Spray Dispenser

Add under item number 4(b) that “member shall clearly articulate why applying pepper spray within three feet was necessary.”

6.04.000 LESS LETHAL WEAPONS

6.04.005

POLICY STATEMENT: 09/1208/19

Less lethal weapons are tools designed to assist deputies to gain reasonably and effectively control of a physically resistant, or aggressive or violent subject(s) who poses a threat of physical harm to themselves, to the deputy(s) or to other persons or property. Less lethal weapons have been adopted for use by the Sheriff's Office but are not intended to be a substitute when lethal force is necessary. Sworn personnel shall successfully complete training on less lethal weapons prior to using them. All applications of less lethal weapons shall conform to the principles outlined in the training and certification program, consistent with the RCW definition of necessary force (RCW 9A.16.010) and the Use of Force Policy (GOM 6.00.000).

6.04.010

TRAINING: 04/1008/19

Prior to being authorized to carry or use any less lethal weapon, members shall successfully complete training and/or certification on that specific less lethal weapon. The training and/or certification shall include be issued a copy of and trained on training on the policy pertaining to the type of weapon to be carried by the member. The member shall be issued a copy ~~issuance~~ of the policy pertaining to the type of weapon to be carried and ~~training~~ will be documented in the member's training record.

6.04.015

CEW (Conducted Electrical Weapon) - TASER (CEW): 10/1608/19

1. The "TASER" is ~~a the conducted electrical weapon (CEW)~~ issued by Sheriff's Office.
 - a. When used with a cartridge it temporarily immobilizes subjects.
 - b. When used in the "contact stun mode" it is primarily a pain compliance tool.
 - c. The Taser CEW is deployed as an additional force option and is not intended to replace firearms, chemical agents, pepper spray or self-defense techniques.
2. The Taser CEW and cartridges shall only be carried by authorized sworn personnel.

6.04.020

REQUIREMENT TO CARRY TASER CEW: 04/1908/19

1. Commissioned deputies, sergeants and court marshals ~~must shall~~ carry the department ~~approved issued~~ Taser CEW while working in a uniform assignment.
 - a. Members shall have at least one (1) extra cartridge readily available.
 - b. Members shall not carry Taser CEW cartridges in their pockets.
2. The Taser CEW shall be carried in a department issued holster.
3. Plainclothes personnel may carry the Taser CEW as authorized, consistent with the needs of their assignment or with the approval of their supervisor.
4. Department members shall carry the Taser CEW on their support side, opposite the hand gun or strong side, for a support side draw only. A crossdraw holster and carry is not permitted.
 - This includes attaching the holster to belts, duty belts and being worn on any specialty vests.
5. Members are exempt from carrying the Taser CEW while in class A Dress uniform at functions

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such as ceremonies or funerals.

6.04.025

TASER CEW CERTIFICATION: 40/4608/19

1. Sworn personnel must successfully complete a specific department authorized Taser CEW training and certification course before they may carry and use a Taser CEW.
2. Sworn personnel shall only carry a department issued Taser CEW.
3. Each Taser CEW user shall recertify annually.
4. Failure to maintain annual certification shall require the user to retake the 8 hour Taser CEW Basic Course.

6.04.030

USING THE TASER CEW: 07/4708/19

The Taser CEW may be used to control a physically resistive, or aggressive, or violent subject who poses a threat of physical harm to his/herself, to the deputy(s) or to other persons or property. Fired probes should be used rather than contact-stuns unless using probes is not possible. Before application, of the Taser CEW, deputies:

1. Should/Should give warning of "Taser, Taser, Taser" when feasible.
2. May use prior to impact weapons such as hands, feet, baton, or flashlight.
3. May use prior to deadly force.
4. When feasible, should deploy the Taser CEW on the larger muscle groups of subjects body (front of body torso, legs and arms, back of body below the neck), this will reduce the risk of hitting sensitive body areas and increase NMI.
5. Should not use the Taser CEW as a pain-compliance tool (i.e. contact stuns) during passive or resistance situations unless the person presents a threat of injury to themselves or the deputy.
6. Are discouraged using the Taser CEW on handcuffed persons, obviously pregnant females, elderly persons, young children, or visibly frail persons, but the use of the Taser CEW may be considered when these persons pose an immediate threat to the safety of themselves, deputies or others and/or are actively resisting arrest.
 - Deputies must consider the seriousness of the offense when evaluating the Taser CEW as a force option.
7. Shall not use on persons solely to prevent the ingestion of controlled substances.
8. Should not use the Taser CEW around areas or substances that are highly flammable such as ether or gasoline.
9. Should consider other force options besides the Taser CEW on subjects in elevated positions (on a roof, in a tree etc).
10. Should consider other force options besides the Taser CEW on subjects in water.
11. Shall only apply the number of Taser CEW applications reasonably necessary to capture, control or restrain the subject.
 - Subject must be evaluated after each application of the Taser CEW.
 - Every application of the Taser CEW must be justified.
12. Shall not use on persons solely because they are fleeing.
13. May use the Taser CEW to disable a vicious animal that poses a threat to the deputy or others.

6.04.035

TASER CEW POST APPLICATION PROCEDURES: 04/19

1. Whenever a Taser CEW is applied to an individual and the darts have penetrated sensitive areas and/or there are other injuries, a Fire Department Aid or Medic Unit shall be called to the scene.
 - Treatment at a medical facility will only be necessary on the advice of aid personnel.
2. Taser CEW darts which penetrate an individual's skin in non-sensitive areas will be removed by the Taser CEW operator at the earliest practical opportunity.
3. Expended Taser CEW darts and cartridges shall be handled as a biohazard and shall be disposed of in properly marked biohazard containers, unless required to be retained as evidence or to document malfunction.
4. Photographs of penetration points and any injuries will be taken.
 - a. A set of photographs will be forwarded with the Use of Force Review file.
 - b. The serial number of the Taser CEW and the cartridge number must be recorded.
5. All applications of a Taser CEW will require a data-download prior to the submission of the review.
 - The data-download shall be for the date of the incident only.
6. Data downloads shall be completed as soon as practical and the data shall be attached electronically to the Blue Team use force review file.

6.04.040

MAINTAINING, REPLACEMENT OF CARTRIDGES AND BATTERIES: 04/19

1. Each precinct worksite shall maintain, control and record the inventory of replacement Tasers, cartridges and batteries.
 - a. Each precinct worksite shall have two (2) spare X2 Tasers, twenty-five (25) duty cartridges and up to twenty (20) spare batteries (exceptions for training sites).
 - b. Damaged, malfunctioning Tasers shall be reported to the Department Taser CEW Coordinator and left at worksites for pickup.
 - c. Taser CEW batteries should ordinarily only be removed from a Taser CEW for administrative download or maintenance purposes.
2. Supervisors are responsible for obtaining replacement Tasers and duty cartridges.
 - a. Duty cartridges will be issued by a supervisor or Taser CEW Instructor.
 - b. Issuing supervisor will maintain the Taser Cartridge Tracking sheet.
 - c. Duty cartridge serial numbers will be recorded by the issuing supervisor.
 - d. Supervisors or Taser CEW Instructors will replace damaged, malfunctioning Tasers from their worksite spares.
3. Worksite Taser CEW Instructors are responsible for obtaining Taser CEW equipment and supplies through the Department Taser CEW Coordinator.
4. Authorized personnel shall spark test the Taser CEW every 24 hours or at the start of each shift to check that it is functioning properly.
 - a. Battery life below 40% shall be reported to supervisor and replaced.
 - b. Damaged or malfunctioning Taser CEW's shall be reported to supervisor immediately and replaced.

6.04.045

UNINTENTIONAL TASER CEW DISCHARGE: 07/17

1. Whenever a member unintentionally discharges a Taser CEW cartridge, the member shall:
 - a. Immediately notify a supervisor.
 - b. Submit a detailed Officer's Report of the event and include the spent cartridge serial number.
2. The involved member's supervisor shall:
 - a. Issue a new Taser CEW cartridge to the member.
 - b. If the unintentional discharge is a suspected malfunction, or the reason for the discharge cannot be determined, the Taser CEW will be returned to the Department Taser CEW Coordinator for inspection.
 - c. Enter the incident in Blue Team as a preliminary.
3. If the unintentional discharge occurs when confronting a suspect(s), follow the steps listed in section 6.04.035.
4. If the unintentional or accidental discharge strikes the member using the device or another deputy person, the member shall:
 - a. Immediately notify a supervisor.
 - b. Render any first aid as appropriate.
 - c. Fill out the workplace injury/accident form as appropriate.

~~6.04.050~~

~~**RECERTIFICATION:** 03/13~~

- ~~1. Each authorized Taser user shall recertify annually.~~
- ~~2. Failure to maintain annual certification shall require personnel to retake the 8 hour Taser CEW Basic Course.~~

~~6.04.055~~

~~**LESS LETHAL SHOTGUN:** 08/18/19~~

The Less Lethal Shotgun program is designed to give deputies an additional force option. This tool provides a less lethal option beyond Taser CEW range, which gives deputies more distance and shielding options, which can de-escalate situations.

~~6.04.055~~

~~**LESS LETHAL SHOTGUN CERTIFICATION:** 08/19~~

1. Deputies must successfully complete the department authorized Less Lethal Shotgun training and certification course prior to using a less lethal shotgun.

~~**RECERTIFICATION:**~~

- ~~2. Each authorized user of less lethal shotgun shall recertify annually.~~
- ~~3. Failure to maintain annual certification shall require deputies to turn in their assigned Less Lethal Shotgun.~~

~~6.04.060~~

~~**LESS LETHAL SHOTGUN EQUIPMENT:** 08/19~~

- ~~1. Deputies~~ Members shall only use department authorized Less Lethal Shotguns.
2. The shotgun authorized for less lethal munitions shall be clearly marked with an orange stock and fore grip.

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- a. The words "Less Lethal" must be clearly marked on the stock of the weapon.
- b. Only issued 23DS Drag Stabilized Bean Bag rounds will be used by Less Lethal Shotgun personnel assigned to patrol.
 - Other less lethal rounds may be used by members of Tac-30 or when specifically authorized by an incident commander.
3. Deputies-Members assigned to carry a Less Lethal Shotgun, either KCSO or Contract City owned/issued, shall not carry any other shotgun to avoid mixing of rounds.
 - No lethal shotgun rounds will be allowed in any vehicle equipped with a Less Lethal Shotgun.

06.04.065USING THE LESS LETHAL SHOTGUN: 08/19

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1. The Less Lethal Shotgun may be used to control actively resistive, or aggressive or violent subjects who pose a threat of physical harm to themselves, deputies or to other persons or property; where other verbal, de-escalation, and physical alternatives would be or have been ineffective or inappropriate.
2. When feasible aA verbal warning shall be given, ~~"when feasible"~~, to a suspect before deployment of beanbag rounds (Deorle v. Rutherford, 242 F.3d 119, 9th Circuit 2001). Saying the word "beanbag" is not sufficient. A more appropriate warning would be: "Sheriff's Office. Drop the bat or you will be shot with a beanbag round."
 - When feasible, prior to the deployment of the Less Lethal Shotgun, department members will announce, "**STANDBY, BEAN BAG**" to alert other department members the Less Lethal Shotgun is being deployed.
 - Deputies-Members must consider the seriousness of the offense when evaluating the Less Lethal Shotgun as a force option.
 - Deputies-Members are strongly discouraged from using the Less Lethal Shotgun on handcuffed persons, obviously pregnant females, elderly persons, young children, or visibly frail persons, but the use of the this tool may be considered when these persons pose an immediate threat to the safety of themselves, deputies or others and/or are actively resisting arrest.
 - Members should not use the Less Lethal Shotgun on animals.
3. The Less Lethal Shotgun is an additional tool and is not intended to replace firearms, Taser CEW, pepper spray, baton, or defensive tactics.
 - Deputies-Members should consider having a lethal cover officer when deploying a Less Lethal Shotgun.
4. The Less Lethal Shotgun may be used prior to deadly force.
5. The number of beanbag rounds delivered must be justified and should be based on whether or not they are effectively achieving the intended outcome.
 - Subject must be evaluated after each Less Lethal Shotgun deployment
6. Deputies-Members should consider other force options besides the Less Lethal Shotgun on subjects in elevated positions (on a roof, in a tree etc.).

7. The Less Lethal Shotgun will not be deployed for large fights, public disturbance, or riots, unless being deployed as part of a demonstration management team with supervisor approval.

06.04.070

LESS LETHAL SHOTGUN POST APPLICATION PROCEDURES: 08/19

1. Whenever a beanbag round strikes an individual, a Fire Department Aid or Medic Unit shall be called to the scene.

- Treatment at a medical facility will only be necessary on the advice of aid personnel.

2. Photographs shall be taken of any injuries or impact areas and forwarded with the Use of Force Review file.

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06.04.075

UNINTENTIONAL DISCHARGE - LESS LETHAL SHOTGUN: 08/19

1. Whenever a member unintentionally discharges a Less Lethal Shotgun, the member shall:

- a) Immediately notify a supervisor
- b) Submit a detailed Officer's Report of the event.

2. The member's supervisor shall:

- a) Respond to the scene.
- b) If the unintentional discharge is a suspected malfunction, or the reason for the discharge cannot be determined, the less lethal shotgun will be returned to the Range Unit for inspection.
- c) Enter the Incident in Blue Team as a preliminary.

3. If the unintentional or accidental discharge strikes another, follow post application procedures.

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06.04.080

REPORTING PROCEDURES - LESS LETHAL SHOTGUN: 08/19

1. Whenever the Less Lethal Shotgun is "displayed only" and that display is a mitigating factor in escalating a situation, that display will be documented on the Less Lethal Shotgun Use form (KCSO Form #A-165) and sent directly to the range master for statistical purposes.

- The reporting procedures in GOM 6.01.??? for "Show of Force" and "Pointing and Aiming" will also be followed.

2. In addition, to the normal use of force reporting procedures, uses of force involving less lethal shotguns, including misses, will be documented on the Less Lethal Shotgun Use form (KCSO Form #A-165).

- Upon completion and review by a supervisor this form will be attached electronically to the Blue Team use of force review file.
- A copy of this form will be forwarded to the range master to retain for evaluation and statistical purposes.

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6.04.060

OTHER LESS LETHAL WEAPONS: ~~07/09~~

1. ~~Other less lethal weapons include:~~

- ~~a. Baton.~~
- ~~b. Asp.~~
- ~~c. Pepper Spray.~~
- ~~d. Chemical agents.~~

2. ~~Sworn members shall be provided biennially training for these less lethal weapons.~~

6.05.000 PEPPER SPRAY

~~6.0504.005085~~

PEPPER SPRAY: ~~08/19~~

INTRODUCTION: ~~05/13~~

Pepper Spray/Oleoresin Capsicum (OC) has been adopted for use by the Sheriff's Office as a less lethal, ~~non-injurious~~ force option. Frequently, ~~deputies/detectives~~members encounter situations involving physical resistance to arrest, or direct physical attacks upon them while conducting police duties. Appropriate use of Pepper Spray may enable deputies to effectively obtain compliance from resisting/combative persons.

~~6.0504.010090~~

EFFECTS/LIMITATIONS – PEPPER SPRAY: ~~09/93~~

The ~~department issued~~ Pepper Spray dispenser uses a non-flammable propellant and allows for Pepper Spray deployment at any angle. The dispenser is designed to project a liquid, foam or gel formula ~~or of~~ Oleoresin Capsicum (OC) into the face-eyes of a non-complying, resisting offender or an unarmed attacker and does not require shaking of the dispenser prior to use.

1. Members shall only carry department issued Pepper Spray.
2. Oleoresin Capsicum (OC) is an inflammatory agent, not an irritant such as Chemical Mace.
 2. Upon contact with the faceskin, the Pepper Spray may causes:
 - a. An extreme burning sensation in the eyes, nose, mouth, and respiratory tractsskin.
 - b. Swelling of these tracts that immobilizes the personPronounced mucus secretion.
 - c. Obscured Interference with vision; and involuntary closure of the eyes
 - d. Restricted Interference with deep lung breathing and burning sensation of the lungs.
3. The temporary impairment usually lasts fifteen (15) to sixty (60)~~thirty (30)~~ minutes.
4. The effects of Pepper Spray may be limited on:
 - a. Violent mentally ill persons; and
 - b. Persons under the influence of narcotics.
5. Deputies ~~Members~~ should be aware of residue (e.g., suspect's clothing, patrol car) that can cause secondary exposure to deputies ~~members~~ and the person who was sprayed.
 - Deputies ~~Members~~, who have been exposed, should be decontaminated and obtain first aid or medical treatment (See section 6.0504.020100).

~~6.0504.015095~~

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WHEN TO USE PEPPER SPRAY: 44/0408/19

Pepper Spray is not designed to replace the service handgun or police baton. Pepper Spray is intended for use when attempting to control an unarmed physically resisting person who demonstrates the risk of injuring self and/or others during the arrest process.

1. ~~Deputies~~ Members should give warnings when feasible before application.
2. Pepper Spray may be used:
 - a. Prior to use of hands to apply come-a-long and control holds.
 - b. Prior to the use of baton, flashlight or other similar instrument to apply come-a-long and control holds.
 - c. Prior to the use of deadly force.

6.0504.020100

PEPPER SPRAY - POST USAGE APPLICATION PROCEDURES: 44/0408/19

After spraying a person with Pepper Spray, ~~deputies~~ members, if possible, shall:

1. Flush the affected areas with water.
2. Expose the area to fresh air.
 - Facing the wind with open eyes.
3. If needed, obtain first aid or medical treatment for extreme reactions.

6.0504.025105

CARRYING/OPERATING PEPPER SPRAY DISPENSER: 40/4708/19

1. Pepper Spray is required to be carried in a specifically designed holster when in uniform.
 - ~~Deputies~~ Members wearing the uniform dress jacket shall be exempt.
2. ~~Deputies~~ Members in plain clothes assignments should have Pepper Spray readily accessible at all times.
3. To operate the Pepper Spray ~~deputies~~ members shall:
 - ~~a. Shake dispenser to mix contents.~~
 - ~~ba.~~ Aim nozzle at the ~~person's subject's eyes and nose area of the face.~~
 - ~~eb.~~ Spray a one (1) second burst, in a sweeping motion, to at the person's subject's face eyes.
 - ~~ec.~~ Assess the person's compliance.
 - Loud and concise verbal commands should be used.
4. ~~The ideal deployment of~~ Pepper Spray is 6-8 feet with a minimum distance of 3 feet may be used up to ten (10) to twelve (12) feet on a calm day and up to six (6) to eight (8) feet into a strong wind.
 - a. Deputies should be aware of possible blowback of the Pepper Spray when spraying into the wind which may cause the same symptoms experienced by the subject being sprayed.:
 - ~~Slight vision impairment, watery eyes.~~
 - ~~Coughing or gagging.~~

- b. The Pepper Spray may cause eye damage, if sprayed within 3 feet, due to the hypodermic effect of the stream~~not be effective when sprayed within two (2) feet of a person.~~
5. The use of MK9 or similarly sized Pepper-Spray containers shall only be used by TAC-30, the Demonstration Management Team or when authorized by an incident commander.

6.0504.030110

REPORTING PROCEDURES – PEPPER SPRAY: 09/12

1. Supervisor notification is required in all incidents where pepper spray is used.
2. A use of force review is required for all applications of pepper spray.

6.04.115

OTHER LESS LETHAL WEAPONS: 08/19

1. Other less lethal weapons include:

- a. Baton.
- b. Asp.
- c. Pepper Spray.
- d. Chemical agents.

2. Sworn members shall be provided biennially training for these less lethal weapons.