

Control Devices and Techniques

308.1 PURPOSE AND SCOPE

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

308.1.1 WHEN DEVICES MAY BE USED

When a decision has been made to restrain or arrest a violent or threatening suspect, an approved control device may only be used when its use appears reasonable under the circumstances.

Officers may immediately progress to a higher level of force, depending on the severity of the situation and the amount of force necessary to bring the suspect under control. If exigent circumstances exist, dual force (the deployment of more than one control device at the same time) is allowed.

308.1.2 TRAINING FOR CONTROL DEVICES

- (a) Only officers trained and having shown adequate proficiency in the use of any control device and knowledge of this department's use of force policy are authorized to carry the device. Proficiency training must be monitored and documented by a certified weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers failing to demonstrate proficiency with the weapon or knowledge of this department's use of force policy will be provided remedial training. If, after two additional attempts, an officer still cannot demonstrate proficiency with a weapon or knowledge of this department's use of force policy, the officer may be subject to discipline.

308.2 BATONS

The baton is authorized for use when, based upon the circumstances perceived by the officer, lesser force would not reasonably appear to result in the safe control of the suspect.

Sworn police and revenue personnel may only carry the baton after having received P.O.S.T. or other departmentally approved training.

Prior to issuance, all Batons will be inspected and reviewed by a qualified instructor to ensure operational readiness. Any baton that does not pass the inspection and review will not be issued. A baton that is damaged or otherwise deemed unsafe will be removed from service and should be returned to the Equipment PAS for disposal and a new baton issued.

308.2.1 LONG BATON

Sworn police personnel are authorized to use either the straight long baton or side handled long baton, and are required to have the straight long baton or side handled long baton readily available within their assigned vehicle.

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The straight long baton or side handled long baton shall be black or natural wood tone finish, no more than thirty (30) inches in length, and made from wood, polycarbonate material, or metal alloy such as aluminum. The straight long baton shall be equipped with a rubber grommet for wear on the Sam Browne gun belt.

Revenue protection personnel are required to carry the straight long baton only.

308.2.2 EXPANDABLE BATON

Sworn police personnel in uniform or plainclothes are authorized to carry the expandable baton (either straight or side handled) as an optional impact weapon. Revenue protection personnel shall only carry the Monadnock model SX-24 twenty-four (24) inch expandable straight baton or the ASP friction straight baton as an optional impact weapon.

The optional expandable baton must be black or the natural metal color, and constructed of a polycarbonate material or metal alloy. When carried by personnel in uniform, the expandable baton shall be carried in a basket weave holder designed for the baton.

Personnel assigned to a train beat for an entire shift will not be required to carry their straight long baton or side handled long baton if they are carrying an authorized expandable baton.

Sworn officers assigned to vehicle patrol will still be required to have the straight long baton or side handled long baton readily available within their assigned vehicle, but may also carry an expandable baton if desired.

308.2.3 SHORT BATON

Sworn police personnel in uniform or plainclothes are authorized to carry the short baton as an optional impact weapon.

The optional short baton must be ten (10) to fourteen (14) inches long, black or natural wood tone finish, and constructed of wood, polycarbonate material, or metal alloy such as aluminum. When carried by personnel in uniform, the short baton will be carried in the sap pocket of the standard uniform pants.

Personnel assigned to a train beat for an entire shift will not be required to carry their straight long baton or side handled long baton if they are carrying an authorized short baton.

Officers assigned to vehicle patrol will still be required to have the straight long baton or side handled long baton readily available within their assigned vehicle, but may also carry a short baton if desired.

308.2.4 BATON APPLICATION

The police baton may only be used by sworn personnel and revenue guards in the manner prescribed by department training.

Officers' and revenue guards' proficiency in the use of the police baton, as well as related policy and procedures, will be tested on a regular basis.

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Batons shall not be used as an impact weapon in mere anticipation of violence or resistance. They shall not be used merely to enforce compliance with verbal orders, and never used against a person who is under restraint.

Baton blows shall not be intentionally delivered to a person's head, neck, throat, spine, kidney, or groin area unless the officer's life, or the life of another is in imminent peril.

308.2.5 OTHER POLICE IMPACT WEAPONS

The same provisions governing the use of the baton shall apply to those authorized to use any other type of police impact weapon (i.e., Yawara stick, flashlight baton). Sap gloves are prohibited.

308.2.6 MEDICAL TREATMENT

Arrange to have the affected person evaluated by qualified medical personnel as soon as practical for clearance prior to booking. Medical personnel should determine if the suspect should be transported to a hospital prior to booking. Obtain a verbal waiver if the affected person refuses medical treatment. If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel.

308.3 CHEMICAL AGENTS

The use of chemical agents for crowd control/dispersal or against barricaded suspects shall be based on the circumstances. The watch commander, incident commander or SWAT commander may authorize the delivery and use of chemical agents, evaluating all conditions known at the time and determining that lesser force would not reasonably appear to result in the safe control of the suspect(s). When practical, fire personnel should be alerted, or summoned to the scene, to control any fires and to assist in providing medical aid or chemical evacuation, when the scene is safe. Only officers or supervisors trained in the use of chemical agent weapons should discharge such devices at the scene.

308.4 OLEORESIN CAPSICUM

Only authorized personnel may possess and maintain department-issued oleoresin capsicum spray. Oleoresin capsicum spray is used to minimize the potential for injury to officers, offenders, or other persons. It should be used only in situations where such force reasonably appears justified and necessary.

Prior to issuance, all OC canisters will be inspected and reviewed by a qualified instructor to ensure operational readiness. Any OC canister that does not pass the inspection and review will not be issued. A OC canister that is damage, expired, or otherwise deemed unsafe will be removed from service and should be returned to the Equipment PAS for disposal and a new OC canister issued.

308.4.1 WATCH COMMANDER RESPONSIBILITIES

All personnel authorized to carry oleoresin capsicum spray, shall complete the required course of instruction prior to possessing and using the oleoresin capsicum spray.

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Flash bangs and chemical agents other than oleoresin capsicum shall only be used on the expressed orders of a command level officer, or in immediate life threatening situations. Chemical agents and tactical devices shall be tactically deployed only by officers trained in the use of the specific arrest control devices being utilized. Such devices will be deployed in a manner which will ensure the least hazard to the public.

308.4.2 RESPONSIBILITIES

Uniformed-field personnel carrying the oleoresin capsicum spray shall carry the device on their uniform. Plain-clothes and non-field personnel may carry the oleoresin capsicum spray as authorized, consistent with the needs of their assignment, or at the direction of their supervisor.

Canisters involved in any type of malfunction or damage shall be turned in to the property clerk for exchange. Damage to District property shall also be reported to the appropriate supervisor and the cause of damage explained.

Employees should check the expiration on their canister, and shall request a new canister prior to expiration. In the case of loss or depletion due to use, the affected employee shall submit a memo to his immediate supervisor requesting the replacement and explaining the need for same. The supervisor will arrange for immediate replacement.

308.4.3 APPLICATION OF OLEORESIN CAPSICUM

Oleoresin capsicum shall not be used indiscriminately or in mere anticipation of violence or resistance.

Except under conditions which represent an extreme hazard (immediate threat of serious injury or death), oleoresin capsicum is not to be used at any distance less than three (3) feet and is not to be aimed directly at the eyes at distances less than five (5) feet.

For maximum effectiveness, a targeted suspect should be at a distance of not less than six (6) feet or more than ten (10) feet away. At distances less than six (6) feet, it is difficult to protect oneself from being accidentally contaminated.

To be effective, oleoresin capsicum should come into contact with the face of the target. Spraying the target below the face may not cause the desired effect.

Oleoresin capsicum works well on persons who are intoxicated, under the influence of drugs, mentally deranged, or against other persons having reduced sensitivity to Mace.

Due to the close range of these encounters, it is extremely important for officers to spray a one (1) second burst of oleoresin capsicum into the face of the aggressor and then immediately move laterally to either side in order to side step any attempted attack.

Once contaminated by oleoresin capsicum, officers will have a difficult time protecting themselves since the effects are immediate and can last for up to forty-five (45) minutes.

Due to the extremely effective incapacitation qualities of oleoresin capsicum, extreme care and consideration should be exercised by officers when applying oleoresin capsicum to suspects

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in the field, stations, vehicles and BART trains so as not to contaminate themselves, other officers, or citizens who may be trying to assist in the control or apprehension of a resistive or aggressive/combatative subject. Because oleoresin capsicum will affect passengers or bystanders, they normally should not be used on crowded trains or crowded platforms.

Do not attempt to discharge oleoresin capsicum when positioned upwind.

308.4.4 TREATMENT FOR CHEMICAL AGENTS/OLEORESIN CAPSICUM SPRAY EXPOSURE

Persons who have been affected by the use of chemical agents/oleoresin capsicum should be promptly provided with cold water, and exposure to fresh air as soon as practical. Remove glasses or contact lenses.

Advise the person affected not to rub the skin or eyes because of the possibility of spreading the oil to other areas. Do not apply salves, creams, oils, or lotions, as they can trap the irritant.

Arrange to have the affected person evaluated by qualified medical personnel as soon as practical. Medical personnel should determine if the suspect should be transported to a hospital prior to booking. If any individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel.

Whenever BART Police personnel use oleoresin capsicum to subdue an arrestee, custodial personnel will be informed of this fact when transferring custody of the prisoner.

308.4.5 REPORT OF USE

All uses of chemical agents/oleoresin capsicum shall be documented in the related arrest/crime report.

308.5 LLIMS GUIDELINES

This department is committed to reducing the potential for violent confrontations when suspects are encountered. LLIMS projectiles, when used properly, are less likely to result in death or serious physical injury.

LLIMS projectiles are approved by the department and are fired from Defense Technology Single Shot 40 mm launchers. Certain munitions can be used in an attempt to de-escalate a potentially deadly situation, with a reduced potential for death or serious physical injury.

308.5.1 DEPLOYMENT

Approved munitions are justified and may be used to compel an individual to cease his or her actions when such munitions present a reasonable option for resolving a situation. LLIMS may also be used when dealing with vicious animals.

Officers are not required, or compelled, to use approved munitions in lieu of other reasonable tactics if the involved officer(s) determine that deployment of these munitions cannot be done

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safely. The safety of hostages, innocent persons, and officers takes priority over the safety of subjects engaged in criminal or suicidal behavior.

Operators shall advise dispatch via radio when LLIMS is deployed. If not on scene, sergeants shall respond immediately to assume control of the deployment and use. When an officer is deploying LLIMS, he/she is the officer in charge until the arrival of a supervisor.

308.5.2 EXAMPLES OF CIRCUMSTANCES APPROPRIATE FOR DEPLOYMENT

Examples include, but are not limited to, the following types of situations where the subject:

- (a) Is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions
- (b) Has made credible threats to harm himself or others
- (c) Is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or officers

308.5.3 DEPLOYMENT CONSIDERATIONS

Before discharging projectiles, the officer should consider the following factors:

- (a) Severity of the crime or incident.
- (b) Subject's capability to pose an imminent threat to the safety of officers or others.
- (c) If the subject is actively resisting arrest or attempting to evade arrest by flight.
- (d) The credibility of the subject's threat, as evaluated by the officers present, and the subject's physical capacity/capability.
- (e) The proximity of weapons available to the subject.
- (f) The officer's, versus the subject's, physical factors (e.g., age, size relative strength, skill level, injury/exhaustion, the number of officer(s) versus subject(s).
- (g) The availability of other force options and their possible effectiveness.
- (h) Distance and angle to target.
- (i) Type of munitions employed.
- (j) Type and thickness of subject's clothing.
- (k) The subject's actions dictate the need for an immediate response and the use of control devices appears appropriate.

308.5.4 DEPLOYMENT DISTANCES

Officers should keep in mind the manufacturer's recommendations regarding deployment when using control devices, but are not solely restricted to use according to these manufacturer recommendations. Each tactical situation must be evaluated on the totality of circumstances at the time of deployment.

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308.5.5 SHOT PLACEMENT

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 when deadly force is not reasonably justified.

Officers should generally follow the manufacturer's recommendations regarding minimum deployment distances and target areas, however, any target area or distance may be considered when it reasonably appears necessary to accomplish immediate incapacitation, in order to prevent serious injury or death, and other reasonable methods have failed or reasonably appear ineffective.

308.5.6 APPROVED MUNITIONS

Patrol personnel may only utilize Defense Technologies 40mm Exact Impact Munitions.

For SWAT missions, Department trained SWAT personnel may deploy other 40mm munitions at the direction of the SWAT Commander.

308.5.7 USE OF LLIMS PROJECTILES BY SUPERVISORS AND OFFICERS

A LLIMS 40mm launcher designated for the use of LLIMS projectiles, will normally be carried in the trunk of each supervisor's unit. An additional launcher should normally be available in each zone for Field Training Officers to carry in their vehicle.

Supervisors and officers will inspect this launcher at the beginning of each shift to ensure that it is in proper working order and loaded with approved projectiles only.

308.5.8 USE OF LLIMS PROJECTILES BY SWAT

Officers who have completed a departmental-training course may carry and employ 40 mm projectiles while on duty, or while performing Special Weapons and Tactics (SWAT) missions.

308.5.9 POST DEPLOYMENT

- (a) Medical personnel should be summoned for suspects shot with LLIMS and be cleared prior to booking. Medical personnel should determine if the suspect should be transported to a hospital prior to booking.
- (b) The LLIMS projectile, if found, and casing should be placed into evidence.
- (c) Photos should be taken of the impact site and placed into evidence.
- (d) LLIMS deployments and use shall be documented in a police report on the incident.
 - 1. A LLIMS deployment is when the LLIMS launcher is displayed in a manner intended to control or influence a suspect's actions. (Responding to a call with the launcher slung is not a deployment.)
 - 2. The immediate supervisor not involved in the deployment will make a copy of the report and determine if the deployment/use was appropriate. See Policy 344 for supervisor's responsibilities.

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3. The report will be forwarded to the Chief of Police via the chain of command.

308.6 TEAR GAS GUIDELINES

Personnel who have successfully completed an approved departmental-training course shall be authorized to use LLIMS projectiles. Supervisors and officers deploying LLIMS projectiles will complete an annual recertification course.

308.7 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device and/or technique listed within this section is considered a use of force and shall be documented pursuant to Policy Manual § 300.4, 300.5 and 344. A reviewing supervisor shall complete a Supervisors' Use of Force Report and indicate whether the use of force was justifiable, unjustifiable or unintentional.

308.7.1 NON-DEADLY FORCE REVIEW

Incidents involving the use of a control devices or techniques should be reviewed in accordance with policies 300 and 302.