

## Control Devices and Techniques

### 303.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy, if issued, or used by a division within the Colorado Department of Revenue.

### 303.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Colorado Department of Revenue may authorize investigators to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

### 303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this agency only if the device has been issued by the Agency or approved by the Senior Director of the Specialized Business Group or the authorized designee.

Only investigators who have successfully completed agency-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 subject who is violent or who demonstrates the intent to be violent, and the use of the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

When using control devices, investigators should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### 303.4 RESPONSIBILITIES

#### 303.4.1 SUPERVISORY INVESTIGATOR RESPONSIBILITIES

The Executive Director or the authorized designee may authorize the use of a control device by selected personnel or members of specialized units who have successfully completed the required training.

#### 303.4.2 OFFICE OF PROFESSIONAL STANDARDS AND TRAINING UNIT RESPONSIBILITIES

The Office of Professional Standards and Training (OPS) unit shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.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 office of professional standards and training (OPS) unit or the designated instructor for a particular control device. The inspection shall be documented.

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### **303.4.3 USER 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 office of professional standards and training (OPS) unit for disposition. Damage to State property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

### **303.5 BATON GUIDELINES**

The need to immediately control a suspect must be weighed against the risk of causing serious injury. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the investigator reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the investigator or others.

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 assignment or at the direction of their supervisor.

### **303.6 TEAR GAS GUIDELINES**

The Colorado Department of Revenue will not issue or supply tear gas. If assisting another agency these guidelines regarding deploying tear gas should be followed. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the outside agency Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, 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 control any fires and to assist in providing medical aid or gas evacuation if needed.

### **303.7 OLEORESIN CAPSICUM (OC) GUIDELINES**

As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups 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 officers or the public.

#### **303.7.1 PEPPER PROJECTILE SYSTEMS**

The Colorado Department of Revenue will not issue or supply pepper projectiles. If assisting another agency these guidelines regarding deploying pepper projectiles should be followed. Pepper projectiles are plastic spheres that are filled with a derivative of OC powder. Because the compressed gas launcher delivers the projectiles with enough force to burst the projectiles on

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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 investigator reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the investigator or others.

Investigators accompanying outside agency personnel encountering a situation that warrants the use of a pepper projectile system shall notify a supervisor as soon as practicable. A DOR supervisor for the division involved shall respond to all pepper projectile system incidents where the suspect has been hit or exposed to the chemical agent. The responding DOR 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 the suspect, 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 and product demonstrations, is exempt from the reporting requirement.

### **303.7.2 TREATMENT FOR OC SPRAY EXPOSURE**

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel.

### **303.8 ADDITIONAL CHEMICAL AGENT DEPLOYMENT CONSIDERATIONS**

In response to a protest or demonstration, investigators shall not use any chemical agents, including pepper spray or tear gas, without first issuing an order to disperse. The order shall be given in a reasonably sufficient manner to be heard, and repeated if necessary, and followed by sufficient time and space to allow compliance with the order (CRS § 24-31-905).

### **303.9 POST-APPLICATION NOTICE**

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, investigators 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 cleanup will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

### **303.10 KINETIC ENERGY PROJECTILE GUIDELINES**

The Colorado Department of Revenue will not issue or supply less lethal launchers or kinetic energy projectiles. If assisting another agency these guidelines regarding deploying less lethal launchers or kinetic energy projectile should be followed. This agency is committed to reducing the potential for violent confrontations. Less lethal launchers using 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.

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### 303.10.1 DEPLOYMENT CONSIDERATIONS

Investigators accompanying other agency personnel encountering a situation that warrants the use of a less lethal launcher with kinetic projectiles 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 investigators 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 investigators and individuals that the device is being deployed.

Investigators should keep in mind the manufacturer's recommendations and their training regarding effective distances and target areas. However, investigators 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, neck, chest, groin, and spine should not be intentionally targeted, except when the investigator reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the investigator or others.

### 303.10.2 PROTEST OR DEMONSTRATION CONSIDERATIONS

In response to protests or demonstrations, investigators should not discharge kinetic energy projectiles in a manner that intentionally targets the head, neck, pelvis, or back of any person (CRS § 24-31-905).

Investigators shall not indiscriminately discharge kinetic energy projectiles into a crowd (CRS § 24-31-905).

### 303.10.3 SAFETY PROCEDURES

Less lethal launchers or shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Investigators will inspect the less lethal launcher or shotgun and projectiles at the beginning of each shift to ensure that the less lethal launcher or shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

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When it is not deployed, the less lethal launcher or shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the investigator shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the less lethal launcher or shotgun.

Absent compelling circumstances, investigators who must transition from conventional ammunition to kinetic energy projectiles in a lethal weapon will employ the two-person rule for loading. The two-person rule is a safety measure in which a second investigator watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

### **303.11 TRAINING FOR CONTROL DEVICES**

The office of professional standards and training (OPS) unit shall ensure that all personnel 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 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 control devices will be documented in the investigator's training file.
- (c) Investigators who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an investigator cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the investigator will be restricted from carrying the control device and may be subject to discipline.

### **303.12 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES**

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