

## Control Devices

### 303.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policies for the use of control devices by officers of the Auburn Police Department. This policy is to provide operational guidelines.

### 303.2 POLICY

Less lethal force means any use of physical force that has less potential for causing death or serious injury than deadly force; force that involves physical effort to control, restrain, or overcome the resistance of another person. Use of less lethal force can result in death or serious injury. Less lethal force is not meant to be replaced in situations where deadly physically force is necessary.

It is the policy of the Auburn Police Department that sworn officers shall carry and use only those control devices issued by the Department, and that the use of those weapons shall be within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies provided them by the Auburn Police Department. Any use of force must be consistent with *Graham v Connor* to in determining whether the force used is objectively reasonable. *Graham v Connor* established the following factors: the severity of the crime involved, does the subject pose an immediate threat to the safety of the officer or others, is the subject actively resisting or attempting to evade arrest by flight. The use of force or any less lethal weapon is considered a must be necessary to achieve a legitimate police objective.

Officers must always consider the totality of the circumstances when applying these guidelines. This policy recognizes that in certain situations, exigent circumstances may outweigh a specific guideline. In such situations, however, the officer must be able to articulate an objectively reasonable justification for acting outside of this policy and/or the officer's training.

### 303.3 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members 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 members who have successfully completed academy/departments-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. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

### 303.4 RESPONSIBILITIES

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#### **303.4.1 SHIFT COMMANDER RESPONSIBILITIES**

The Shift Commander is authorized to consult the ERT Commander for the use of a control device(s) 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.

#### **303.4.2 RANGE INSTRUCTOR RESPONSIBILITIES**

The Range Instructor and/or ERT Command Staff 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 Range Instructor and/or ERT Command Staff or the designated instructor for a particular control device. The inspection shall be documented and accessible for inspection by the Chief of Police or his/her designee.

#### **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 Range Instructor for disposition. Documentation shall also be forwarded through the chain of command, when appropriate, explaining the cause of damage.

#### **303.5 BATON / ASP GUIDELINES**

The baton / ASP is an impact weapon used to apply force against a resisting or assaultive subject, or to affect a blocking or defensive technique. 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 officer reasonably believes the suspect poses an imminent threat of serious bodily injury or death to him/herself 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 assignments or at the direction of their supervisors.

#### **303.6 CHEMICAL MUNITION GUIDELINES**

Chemical munitions may be used for crowd control, crowd dispersal or against barricaded suspects, based on the circumstances. The Incident Commander may request and authorize the use of chemical munitions. The ERT Commander may authorize the use and delivery of chemical munitions, after 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.

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

As with other control devices, OC spray or fogger 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. OC spray or fogger 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.

##### **303.7.1 OC SPRAY**

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

##### **OC Spray Procedure**

##### **303.7.2 TREATMENT FOR OC 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 who complain of further severe effects shall be examined by appropriate medical personnel.

#### **303.8 KINETIC ENERGY / BEAN BAG PROJECTILE GUIDELINES**

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. Kinetic energy rounds can be deployed from a 12 gauge shotgun, as well as a 37mm launchers or gas gun.

##### **303.8.1 DEPLOYMENT AND USE**

Only trained ERT members shall carry and deploy department-approved kinetic energy munitions. 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.

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### **303.8.2 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. 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.

### **303.8.3 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 before each deployment 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 the gun munitions cabinet in the ERT room. 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.

## **303.9 TRAINING FOR CONTROL DEVICES**

The Training and Planning Administrator and/or ERT Commander shall ensure that those members 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.

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

#### **303.10 REPORTING USE OF CONTROL DEVICES**

Any application of a control device shall be documented in the appropriate reports and reported pursuant to the Use of Force Policy.