

# ASHEVILLE POLICE DEPARTMENT POLICY MANUAL

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## CONTENTS

INTRODUCTION

POLICY STATEMENT

DEFINITIONS

RULES AND PROCEDURES

403.1 GENERAL PROVISIONS

403.2 LESS LETHAL-FORCE AUTHORIZATION

403.3 EXPANDABLE BATONS

403.4 OC SPRAY

403.5 ELECTRONIC CONTROL WEAPONS

403.6 SPECIALTY LESS LETHAL WEAPONS AND MUNITIONS

403.7 TRAINING AND PROFICIENCY

403.8 INSPECTION, RECORDS, AND INVENTORY

## ASSOCIATED DIRECTIVES

[Policy 402 – Response to Resistance](#)

[Policy 508 – Canine Operations](#)

[SOP 3002 - Blue Team Reporting](#)

## INTRODUCTION

Police officers, who during the course of their duties, may have to exercise control of persons who are violent, resistive, or experiencing a crisis. Less lethal weapons are an essential tool for officers to safely resolve situations in a manner that reflects the department's commitment to preserving and protecting all lives. The purpose of this directive is to provide officers with clear guidelines for the use of department-approved less lethal weapons in the performance of their official duties.

## POLICY STATEMENT

It is the policy of the Asheville Police Department (APD) to provide clear regulations for the use of less lethal weapons. This directive applies to all members of the department authorized to carry less lethal weapons in the performance of their official duties. [4.1.4]

## DEFINITIONS

Electronic Control Weapon (ECW): a weapon that uses electricity to override voluntary motor responses or apply pain in order to gain compliance or overcome resistance.

Impact Projectiles: projectiles designed to incapacitate a subject with minimal potential for causing death or serious physical injury when compared to conventional projectiles when used in accordance with agency policy and training guidelines (e.g., bean bag rounds).

Less Lethal Force: force which is neither likely nor intended to result in serious physical injury or death. This includes any physical force used to control, restrain, or overcome the resistance of another.

Lethal Force: any use of force that creates a substantial risk of causing death or serious bodily harm.

OC Spray: an aerosol spray weapon system containing a powerful inflammation agent (Oleoresin Capsicum).

Serious Physical Injury: an injury that creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the functioning of any bodily member or organ.

## RULES AND PROCEDURES

### 403.1 GENERAL PROVISIONS

- A. Sworn officers are authorized by the Chief of Police to carry and/or utilize authorized less lethal weapons and munitions in the performance of their duties. [1.2.2]
- B. All uses of force must follow guidelines in [Policy 402 – Response to Resistance](#), to include, when safe and feasible, the use of de-escalation techniques prior to a use of force.
- C. Officers will begin medical observation and evaluation of individuals as soon as practicable following any use of force action. Officers will render aid within their training and/or request emergency medical services for all subjects who complain of injury or show signs of injury as a result of any use of force action. [4.1.5]
- D. A response to resistance report must be completed each time any less lethal weapon is used in accordance with department reporting guidelines outlined in [Policy 402 – Response to Resistance](#) and [SOP 3002 - Blue Team Reporting](#). [4.2.1 c]

#### **403.2 LESS LETHAL-FORCE AUTHORIZATION**

- A. Sworn officers are authorized to use physical and/or less lethal force that is objectively reasonable in order to: [4.1.4]
  - 1. Protect themselves and/or others from harm;
  - 2. Lawfully take a subject into custody, to include involuntary commitment orders;
  - 3. Detain an individual reasonably suspected of unlawful behavior;
  - 4. Prevent the escape of an individual who is in custody or lawfully detained; and/or
  - 5. Control a combative or resistant individual who is in custody or lawfully detained.
- B. Approved non-sworn employees are authorized to use less-lethal force through the use of department-approved OC spray only as a means of self-defense or when necessary to prevent injury to another person.
- C. Authorized use of a department police canine is addressed in [Policy 508 – Canine Operations](#).

#### **403.3 EXPANDABLE BATONS**

- A. The department-approved impact weapon for carrying and use in the performance of duty is the expandable baton. [4.3.1 a]
- B. An expandable baton will not be used to intentionally strike any person in the head, spine, neck, kidney, or groin area unless circumstances would justify the use of lethal force.

#### **403.4 OC SPRAY**

- A. Non-sworn employees may be authorized for the carry of OC spray as approved by the Chief of Police.
- B. Whenever practical, reasonable, and safe, officers should issue a verbal warning prior to using OC spray on a person.
- C. All OC canisters will be carried in a proper receptacle when not in use. No changes, alterations, modifications, or substitutions will be made to the issued OC spray.
- D. Officers may assist in the decontamination of an individual exposed to OC spray as outlined in training.
- E. Officers will remain alert to any indications that the individual needs medical care. This includes but is not limited to: breathing difficulties, gagging, profuse sweating, and loss

of consciousness. Upon observing these or other medical problems, or if the individual requests medical assistance, the officer will immediately summon medical aid. [4.1.5]

- F. Officers should not utilize OC on any individual who the officer knows or has reason to believe suffers from any medical conditions that would be aggravated by the exposure (e.g., asthma or bronchial diseases).

#### **403.5 ELECTRONIC CONTROL WEAPONS**

- A. Officers who carry firearms and an Electronic Control Weapon (ECW) will carry the ECW only in a support-side holster on the side opposite the duty weapon.
  - 1. All ECWs must be clearly and distinctly marked to differentiate them from the officer's firearm and any other device.
  - 2. The ECW holster may allow for cross-drawing, i.e., drawing the taser with the dominant hand, but the ECW must be located sufficiently to the support-side of the body to avoid confusion between the officer's firearm and the officer's ECW.
  - 3. Officers should not hold both a firearm and an ECW at the same time.
- B. The ECW is generally authorized to be used in circumstances where:
  - 1. Grounds to arrest or detain for a criminal offense are present, and/or a valid involuntary commitment order has been issued on the subject;
  - 2. The subject's actions cause a reasonable officer to believe that there is an immediate risk of injury to the officer or another person; and
  - 3. It is reasonably likely that deploying the ECW will alleviate the danger.
- C. The ECW will not be used on those who passively resist, and absent exigent circumstances, should not be used on any subject who:
  - 1. Is handcuffed, absent overtly assaultive or violently resistive behavior that cannot be reasonably controlled by other readily available means;
  - 2. Is in the presence of an environment known by the officer to be flammable or explosive;
  - 3. The officer has a reasonable belief may fall, resulting in death or serious injury, and the circumstances presented do not justify that risk;
  - 4. Is reasonably believed to be pregnant based upon physical appearance;

5. Is operating a motor vehicle, motorcycle, bicycle, or similar conveyance while it is motion; and/or
6. Presents a danger only to themselves.

D. When using the ECW as a response option, officers will:

1. Evaluate whether the use of the ECW is reasonable, based on all circumstances, including the subject's age and physical condition.
2. Take special care to avoid hitting a subject with ECW probes in sensitive tissue areas such as the head, face, neck, or genitalia.
3. Give or attempt to give a verbal warning to the subject of the weapon, prior to deployment, except when such warning would compromise the safety of any individual; and
4. Use the ECW in the manner in which they were trained. The number and duration of cycles will be limited to the minimum activations reasonably necessary to place an individual into custody.

E. Officers should not intentionally deploy more than one ECW at a time against a subject.

F. After deployment, ECW darts may be removed from the subject as outlined in training, and in accordance with the following guidelines:

1. ECW probes will be removed at the earliest opportunity;
2. Only a certified ECW operator or medical personnel may remove the probes. Darts in sensitive body areas (e.g., eye, face, head, breasts, genitals) or those that cannot be easily removed will only be removed by medical personnel; and
3. The cartridge, wire leads, darts, and AFIDs will be collected and secured as evidence. ECW probes that strike a person's body will be considered a biological hazard.

G. Officers will summon first responders or emergency medical personnel to evaluate all subjects who have received an ECW application. Subjects who have received an ECW application will be transported to a medical facility for examination if any of the following occur: [4.1.5]

1. The individual is hit in a sensitive body area;
2. The officer has difficulty removing the probes;

3. The individual does not appear to recover in a reasonable period of time after being exposed as determined by the officer following guidelines taught in training;
4. The individual has been exposed to more than three (3) five (5) second ECW cycles;
5. The individual has been exposed to the effects of more than one (1) ECW device; and/or
6. The individual has exhibited signs of 'excited delirium' as outlined and defined in training prior to and/or after ECW exposure.

H. All officers issued a department ECW must upload ECW data as outlined in training:

1. Before the end of the shift in which an ECW is deployed or activated;
2. During regular equipment inspections (at a minimum, monthly); and/or
3. At the direction of a supervisor.

#### **403.6 SPECIALTY LESS LETHAL WEAPONS AND MUNITIONS**

- A. Any department-authorized specialty less lethal or munitions weapons may only be carried by officers who have satisfactorily completed training and demonstrated proficiency in their use. Authorized specialty less lethal munitions and weapons include:  
[4.3.1 a,b] [4.3.2]
  1. Pepperball gun;
  2. Impact projectiles (e.g., bean bag rounds);
  3. 37/40 mm launched chemical munitions; and
  4. Hand-held canisters/devices for chemical (other than O/C) deployment.
- B. Where possible, deploying officers should inform other personnel in the immediate vicinity that impact rounds or chemical munitions will be deployed.
- C. Deployment of specialty less lethal munitions or weapons will be at the direction of a supervisor unless it is reasonably likely that failure to take immediate action would result in serious injury or death to the officer or another person.
- D. Impact projectiles will not be used to intentionally strike any person in the chest, spine, head, and/or neck areas unless circumstances would justify the use of lethal force. Sensitive areas should not be intentionally targeted (e.g., groin area).

- E. Types and specifications for authorized specialty less lethal weapons assigned to the Emergency Response Team (ERT) or Crowd Control Team will be maintained by the team Commanders. [4.3.1 a,b]

#### **403.7 TRAINING AND PROFICIENCY**

- A. All officers will be issued a copy of this policy. Training in the content and intent of this policy will be accomplished and acknowledged prior to personnel being authorized to carry less lethal weapons. [4.3.4]
- B. Officers authorized to carry a department-approved ECW must demonstrate proficiency with the ECW at least once annually. [4.3.3]
- C. Officers authorized to carry less lethal weapons other than an ECW (e.g., OC spray, impact weapons, specialty munitions) must demonstrate proficiency at least once every two (2) years with each weapon they are authorized to use. [4.3.3]
- D. Instruction and qualification for all department-authorized less lethal weapons must be provided by a certified weapons instructor. [4.3.3 a]
- E. Officers who fail to demonstrate proficiency with any less lethal weapon issued to them will complete remedial training and will no longer be authorized to carry the weapon until such time as proficiency is demonstrated and documented. [4.3.3 c]
- F. It will be the responsibility of the Recruitment and Career Development Section to schedule proficiency training for officers in accordance with this directive and to ensure such training is appropriately documented. [4.3.3 b]

#### **403.8 INSPECTION, RECORDS, AND INVENTORY**

- A. All less lethal weapons must be inspected by a qualified weapons instructor or armorer to ensure the weapon is safe, functional, and operational before issuance for use. This inspection may occur during the required certification and recertification training sessions. [4.3.1 c]
- B. Officers will regularly inspect all issued less lethal weapons in accordance with training. Less lethal weapons that are defective, expired, or otherwise determined to be unsafe must be promptly reported to a supervisor. [4.3.1 c, d]
- C. The Logistics Unit will maintain a listing of all department-approved less lethal weapon specifications as well as a complete inventory of all less-lethal weapons issued for official use by officers. [4.3.1 e]

BY ORDER OF:

A handwritten signature in black ink, appearing to read "David J. Zack". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

David Zack  
Chief of Police