1. PURPOSE

This policy provides Mesa Police Department (MPD) members with guidelines for the use of the 40mm Less Lethal Platform.

2. DEFINITIONS

Immediate Deadly Threat or Imminent Deadly Threat: When it is objectively reasonable to believe that:

- The subject's actions are immediately likely to cause serious physical injury or death to the member or others unless action is taken; and
- The subject has the means or instruments to cause serious physical injury or death; and
- The subject has the opportunity and ability to cause serious physical injury or death.

Immediate or Imminent Non-Deadly Threat: When it is objectively reasonable to believe that:

- A subject's actions are immediately likely to cause physical injury to the member or others unless action is taken;
- The subject has the means or instruments to cause physical injury; and
- The subject has the opportunity and ability to cause physical injury.

Impact Weapon: Instrument by design used to apply force through physical contact. Impact weapons can include the expandable baton, side-handle baton, Less Lethal Shotgun, and 40mm Less Lethal Platform.

40mm Less Lethal Platform: A less lethal impact weapon performing the same function as a handheld baton but designed to be utilized at extended ranges with reduced propensity to cause serious physical injury or death.

40mm Less Lethal Platform Deployment: A member has deployed a 40mm Less Lethal Platform for reporting purposes if:

- The member has pointed a 40mm Less Lethal Platform at a subject; and/or
- Fired a 40mm munition from a 40mm Less Lethal Platform, whether a subject has been struck or not.

40mm Munition: Department-issued less lethal round, fired from a 40mm Less Lethal Platform, designed to deliver controlled force, or as a chemical irritant, to subdue or deter individuals.

3. GENERAL

3.1 Authorized Equipment

A. Department-owned 40mm Less Lethal Platforms are authorized by the MPD and are issued by the Range Sergeant or designee to authorized operators.
B. 40mm munitions are purchased and issued by the Range Sergeant or designee. Members will **only** use 40mm munitions issued by the Department.
C. Only 40mm impact munitions may be fired from a 40mm Less Lethal Platform (except in training activities), with the exception of Mobile Field Force (MFF), which may also use chemical munitions.
D. This section does not apply to SWAT Team specialty equipment.

3.2 Authorized Operators

A. Members must submit a training request through their chain of command and successfully complete the required training to be designated as an authorized operator.
B. 40mm Less Lethal Platform operators in the Patrol Divisions should be distributed among the various work shifts.
C. 40mm Less Lethal Platform operators will retain the 40mm Less Lethal Platform until they leave patrol, at which time the 40mm Less Lethal Platform will be returned to the Range Sergeant or designee for reassignment.
D. The Range Sergeant has final approval of 40mm Less Lethal Platform operators.

3.3 Philosophy

Officers should exercise de-escalation techniques to resolve potential use of force incidents and seek voluntary compliance from suspects/subjects. The courts have held that less lethal force options are "*capable of inflicting significant pain and may cause serious injury.*" Therefore, consistent with the Department's Use of Force policy, less lethal force options are only permissible as follows:

3.4 Authorized Use & Decision Making Process [ALEAP 1.8A]

A. The 40mm Less Lethal Platform is an Impact Weapon.
B. The use of the 40mm Less Lethal Platform is authorized in accordance with DPM 2.1.1 Use of Force, DPM 2.1.25 Impact Weapons, and this policy.
C. The 40mm Less Lethal Platform is authorized to disrupt or defuse a subject if an immediate or imminent threat exists, and the elements of both 1 and 2 below are met:
    1. The subject is wanted for any of the following:

a. Aggravated Assault (must involve violence, a weapon, and/or injury or potential for injury).
b. Arson with threat of harm to people.
c. Domestic Violence felony crimes (violent).
d. Drive by Shooting.
e. First Degree Burglary.
f. Homicide.
g. Kidnapping.
h. Robbery, not including thefts that are accompanied by low level assaults.
i. Sexual Assault.
j. Unlawful Discharge of a Firearm.

2. The subject is visibly armed with a deadly weapon or dangerous instrument; OR, if based on reasonable information gained from reliable, articulable facts, it is believed that the subject is armed with a deadly weapon or dangerous instrument.

D. The 40mm Less Lethal Platform is also authorized to disrupt or defuse a subject who is an immediate or imminent threat and displaying **active aggression**, **aggravated active aggression**, or is a **dangerous violent fleeing felon.**

E. The 40mm Less Lethal Platform is also authorized to disrupt or defuse a **suicidal individual who is armed or believed to be armed**, is an immediate or imminent threat, and who cannot reasonably be dealt with in any other safer fashion.

F. 40mm Less Lethal Platform operators should use extreme caution when considering the use of the 40mm Less Lethal Platform on subjects in elevated positions, and/or when the subject is known to be or is visibly pregnant, elderly, very young, frail, or physically disabled.

G. The 40mm Less Lethal Platform is not authorized to be used on a subject who is passively resisting or merely failing to comply with commands. Verbal threats of violence or mere non-compliance do not alone justify the use of the 40mm Less Lethal Platform.

H. It is prohibited to use 40mm munitions on subjects as a form of punishment, retaliation, undue coercion, or to gain compliance where less intrusive methods could be used.

I. Each 40mm munition fired at a subject is considered a use of force. Members should reassess after firing each round and make every effort to give additional verbal commands.

J. 40mm munitions are only authorized for use as a "door knocker” on structures with supervisor approval. The use should present no reasonable likelihood of harm to individuals. The use of 40mm munitions on vehicles is prohibited.

K. The use of 40mm munitions against a crowd is prohibited unless the member can:
   1. Target a specific individual who poses an immediate threat to cause physical harm; and
   2. Reasonably assure that other individuals in the crowd, who pose no threat of violence, will not be struck by the munitions.

L. Units within the Special Operations Division may deviate from this section of policy based on the seriousness of the crime, the suspect's actions, and in compliance with approved tactics and training.

4. DEPLOYMENT

4.1 Verbal Warnings

A. Members will make every reasonable effort to identify themselves as law enforcement and give commands and warnings before deploying a 40mm Less Lethal Platform in order to:
   1. Provide the subject with a reasonable opportunity to voluntarily comply.
   2. Provide other members and individuals with warning that the 40mm Less Lethal Platform may be deployed.

B. Members should reassess after the firing of each 40mm munition. Give additional verbal warnings, when feasible, providing the subject with the opportunity to comply.

4.2 Target Areas

A. **Primary** target areas include:
   1. Arms below the elbow;
   2. Lower abdomen;
   3. Buttocks; and/or
   4. Thigh and calf.

B. **Secondary** target areas should only be engaged after primary target area strikes have failed to be effective or the threat level has risen. Secondary target areas include:
   1. Shin;
   2. Arms below the shoulder;
   3. Shoulder blades; and/or
   4. Upper abdomen.

C. **Final** target areas may cause serious bodily injury and/or death. The following final target areas should not be targeted unless the threat level has risen to a point where the use of deadly force is authorized:
   1. Solar plexus;
   2. Groin;

3. Kidney;
4. Ribcage;
5. Spine;
6. Head; and/or
7. Neck.

4.3 Deployment

A. The optimal distance for deployment of a 40mm Less Lethal Platform is between 5 to 30 yards.
   1. The 40mm munition is effective up to 50 yards; however, the accuracy diminishes after 30 yards.
B. The minimum distance for the deployment of the 40mm Less Lethal Platform shall be no less than 5 yards.
C. Always have another member present with available lethal force when deploying the 40mm Less Lethal Platform.
D. Members should be prepared to employ other force options if the subject does not respond sufficiently to the 40mm Less Lethal Platform and cannot otherwise be subdued.

5. POST-DEPLOYMENT

A. Once the scene is safe and as soon as practical, ensure appropriate medical aid whenever an individual is struck by an impact weapon.
B. Any deployment of an impact weapon in which a subject is struck (except in training activities) shall be reported in a departmental report regardless of injury.
C. Members and supervisors shall follow the use of force reporting guidelines as outlined in DPM 2.1.1 Use of Force after deployment of impact weapons. [ALEAP 1.6B]
D. Displaying and/or pointing a 40mm Less Lethal Platform at a subject but without firing shall be documented in a departmental report or supplement but does not require a Use of Force Report.
E. When a 40mm Less Lethal Platform is fired at an inanimate object or animal, members shall notify a supervisor and document the incident in a departmental report or supplement, but no Use of Force Report is necessary.

6. CARRYING & MAINTENANCE

6.1 40mm Less Lethal Platform Program

A. The MPD Range manages the 40mm Less Lethal Platform Program.

B. The Range Sergeant is responsible for updating, ordering, and distributing 40mm Less Lethal Platforms as needed.
C. The Advanced Training Section, Range Sergeant, or designee is responsible for updating, ordering, and distributing 40mm munitions.

6.2 Care

A. Operators issued 40mm Less Lethal Platforms are responsible for the care of the weapon, including the accessories and 40mm munitions.

6.3 Security

A. 40mm Less Lethal Platforms will be secured and handled as outlined in DPM 1.6.15 Firearms Handling & Security.

6.4 Inspections

A. 40mm Less Lethal Platforms shall be inspected annually by Range members as outlined in DPM 1.6.5 Authorized Firearms & Ammunition.

6.5 Maintenance & Repairs

A. A 40mm Less Lethal Platform requiring maintenance or repair must be taken to the Range Sergeant as outlined in DPM 1.6.5 Authorized Firearms & Ammunition.

7. TRAINING & RECORDS [ALEAP 1.8B,C]

A. Selected 40mm Less Lethal Platform operators shall attend, and successfully complete, a Department-approved training course covering proper use and deployment of the platform.
B. Additional training/recertification for 40mm Less Lethal Platform operators is held annually.
C. Training attendance is mandatory.
    1. Failure to attend mandatory training will result in the operator being removed from the 40mm Less Lethal Platform Program.
D. The Range Sergeant or designee shall verify and record the initial training and required qualifications.
E. The Advanced Training Section maintains deployment records on the 40mm Less Lethal Platform through Use of Force Reports and completes an annual status report for the Chief of Police.

REFERENCES

- DPM 1.6.5 Authorized Firearms & Ammunition
- DPM 1.6.15 Firearms Handling & Security
- DPM 2.1.1 Use of Force
- DPM 2.1.25 Impact Weapons