

	MARICOPA COUNTY SHERIFF’S OFFICE POLICY AND PROCEDURES	
	Subject LESS-LETHAL SPECIALTY WEAPON SYSTEMS	Policy Number GJ-39
		Effective Date 06-09-23
Related Information CP-1, <i>Use of Force</i> GJ-2, <i>Critical Incident Response</i>		Supersedes NEW POLICY

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures for authorized employees on the proper use of Less-lethal Specialty Weapon Systems during the performance of their lawful duties. This Office Policy also specifies authorized long-range Less-lethal Specialty Weapons, establishes Office qualification standards, and provides employees direction for the use, maintenance, and evidence preservation.

Although this Office Policy refers to employees throughout, this Office Policy also applies with equal force to all volunteers. Volunteers include, but are not limited to, reserve deputies.

Tactical/Specialty Units such as, SWAT, Tactical Operations Unit (TOU), Special Investigations Division (SID), Special Response Team (SRT), and Mobile Field Force may be authorized by their respective bureau chief or designee to carry and use a variety of less-lethal special purpose weapons and munitions to meet the requirements of their assigned duties. Furthermore, it is recognized that these tactical and specialty units are authorized to use different tactics and operations specific to their unit which require advance training and are not subject to the limitations of this Office Policy.

POLICY

It is the policy of the Office to ensure Less-lethal Specialty Weapons qualified employees become familiar with and operate under the guidelines set forth in this Office Policy.

DEFINITIONS

Active Aggression: Physical actions of assault, such as a subject displaying threatening behavior, assaulting, or attempting to assault another person, or destroying or attempting to destroy property.

Active Resistance: Physical actions which attempt to prevent an employee's control, but never attempts to harm the employee, such as a subject tightening up or attempting to pull away.

Aggravated Active Aggression: Physical actions which may result in a lethal-force encounter.

Area Saturation: Deployment of a Direct impact 40mm OC Crushable Foam Round at a fixed object allowing the projectile to break open and create a cloud of Oleoresin Capsicum irritant powder. This Oleoresin Capsicum irritant powder is designed to expose people, or someone who is hiding or out of view, to the chemical agent in an effort to gain physical change in behavior from a subject or compliance with verbal commands. Area Saturation should only be deployed on subjects that are actively resisting or higher.

Blue Team: The Early Identification System (EIS) application that allows employees and supervisors to record information in a database regarding incidents, performance, and conduct. The information from Blue Team is transferred to the IAPro Early Identification case management system.

Direct Impact 40mm Extended Range OC Crushable Foam Round: An operational name for a 40mm tactical launcher less-lethal round containing Oleoresin Capsicum irritant powder with a minimum safe distance of 33 feet and maximum effective range of 230 feet or approximately 75 yards.

Employee: A person currently employed by the Office in a classified, unclassified, contract, or temporary status.

Exact Impact 40mm Standard Range Sponge Round: An operational name for a 40mm tactical launcher less-lethal round with a minimum safe distance of five feet and a maximum effective range of 131 feet or approximately 40 yards.

Flexible Baton Rounds: An operational name for less-lethal shotgun ammunition, with a minimum safe distance of 21 feet. (Also known as bean bag or super sock ammunitions.)

Forty Millimeter (40mm) Tactical Launchers: An Office approved ballistic weapons system designed to fire 40mm projectiles accurately. Available in a single or multi launcher configuration.

Imminent: About to take place. In relation to the use of force, the rationale is that employees should not have to be struck before defending themselves. But "imminent" sets a higher standard than being apprehensive in a hostile situation. It requires the perception of both the intent to immediately strike and the ability to carry it out. The employee must be able to articulate the factors that led to that conclusion.

Intermediate/Less-Lethal Weapon: A weapon with force that has a probability of causing injury, but is unlikely to result in death, when used properly.

Less-lethal Specialty Weapon: For the purpose of this Office Policy, Less-lethal Specialty Weapons are a weapon system designed to fire chemical agents designed for area saturation and ballistic projectiles that are designed for direct impact with a person with the probability of causing injury, but is unlikely to result in death, when properly used.

Less-lethal Specialty Weapons Administrator: A designated employee assigned to the Training Division, who is given various responsibilities which include servicing, training, and maintaining the 40mm launchers. Divisions may assign a designated authorized Less-lethal Specialty Weapon Representative serving as a liaison between the division and the Training Division.

Less-lethal Specialty Weapons Representative: A designated employee assigned to a district/division, who is delegated to perform certain tasks related to 40mm launchers and act as a liaison between the district/division and the Training Divisions, Less-lethal Specialty Weapons Administrator.

Passive Resistance: Physical actions that do not prevent an employee's attempt of control, such as a protester going limp and having to be carried away or an inmate not following verbal commands.

Pointing of a Less-Lethal Specialty Weapon: For the purpose of this Office Policy, the pointing of a Less-Lethal Specialty Weapon in the direction of a person. A slung less-lethal specialty weapon, or displaying a less-lethal specialty weapon at the low ready does not constitute a pointing of a less-lethal specialty weapon incident. Less-Lethal Specialty Weapons include 40MM Tactical Launchers and Less-Lethal Shotguns, as specified in this Office Policy.

Ready Condition:

- A. 40mm Tactical Multi Launcher: When a 40mm tactical multi launcher has the action closed, fully loaded multi chamber, safety on and the hammer is in the forward position.
- B. 40mm Tactical Single Launcher: When a 40mm tactical single launcher has the action closed, loaded chamber, a readily available reload, and the hammer is in the forward position.
- C. Less-lethal Shotgun: When a shotgun has the action closed, empty chamber, fully loaded magazine, and safety on. Note: The shotgun is not drop safe and could potentially discharge in the event of being dropped with a round in the chamber.

PROCEDURES

- 1. **Less-lethal Specialty Weapon Systems:** Less-lethal Specialty Weapon systems are considered an alternative to lethal force when circumstances allow. Less-lethal munitions enable authorized trained employees to utilize an extended range of force deployment when it may be unsafe or not practical to get close range to deploy a non-projectile chemical agent or standard impact weapon. For the purpose of this Office Policy, Less-lethal Specialty Weapon systems include 40mm launchers and less-lethal shotguns.
 - A. The 40mm Tactical single/multi-Launchers and Less-lethal Shotguns designated for flexible baton rounds or other approved less-lethal munitions are the Less-Lethal Specialty Weapon systems approved by the Office for use by designated certified Office employees and patrol deputies, outside of specialty units.
 - 1. The Less-Lethal Specialty Weapon system approved for patrol use are as follows:
 - a. Defense Technology's 40mm Tactical single/multi-Launchers; and
 - b. Remington 870 12g (Less-lethal) Shotguns. Less-lethal shotguns shall be identified with an altered appearance, such as taping the stock a different color, so as not to be confused with a shotgun used with lethal force rounds.
 - 2. All less-lethal munitions shall be Office-issued. The following less-lethal munitions for use with Less-Lethal Specialty Weapons are approved for patrol use **ONLY**.
 - a. Exact Impact 40mm Standard Range Sponge Round;
 - b. Direct Impact 40mm Extended Range OC Crushable Foam Round; and
 - c. Flexible Baton Rounds.
 - B. Tactical/ Specialty Units such as SWAT, Tactical Operations Unit (TOU), Special Investigations Division (SID), Special Response Team (SRT), and Mobile Field Force may be approved for additional less-lethal weapon systems and munitions for these weapon systems and are not subject to the limitations set forth in this Office Policy.
 - 1. Tactical/Specialty Units may request authorization through their bureau chief for additional specialty weapon systems and munitions to meet the requirements of their assigned duties.

2. It is recognized that tactical and specialty units are authorized to use different tactics and operations specific to their unit which require advance training and are not subject to the limitations of this Office Policy.
- C. **Lethal force munitions shall never be used or loaded in Less Lethal Specialty Weapons.**
2. **Requirements to Carry a Less-lethal Specialty Weapon:** Authorization of Less-lethal Specialty Weapons and munitions will be dependent on assignment needs.
 - A. Depending on inventory and availability, all certified patrol deputies with the rank of sergeant and below are required to carry an approved Less-lethal Specialty Weapon in their patrol vehicle during their shift.
 1. If available, the 40mm launcher shall be the preferred Less-lethal Specialty Weapon carried in patrol vehicles.
 2. If limited inventory and/or availability does not allow for each deputy on shift to be assigned a Less-lethal Specialty Weapon, the patrol supervisor should ensure all available inventory is assigned.
 - B. Less-lethal Specialty Weapons shall be carried in Office vehicles in a storage rack, a scabbard, a case, a safe, or in a position where the safety and/or trigger will not be inadvertently manipulated.
 - C. All other certified employees shall follow their divisions operations manual for carry requirements based on the operation needs.
 - D. Custody bureau divisions outside of SRT are not authorized to use, carry, or deploy these less-lethal specialty weapon systems.
3. **Less-lethal Specialty Weapon Certification:**
 - A. All required employees assigned to a specialty unit and patrol deputies with the rank of sergeant and below, are required to successfully complete an initial Less-lethal Specialty Weapon End User Course before being allowed to deploy them and shall recertify every two years.
 1. Patrol deputies with the rank of sergeant and below who are unable to demonstrate proficiency with a Less-lethal Specialty Weapon shall not be allowed to carry that weapon until such time as remedial training can be conducted with a certified instructor and successfully demonstrate proficiency.
 - a. The Training Division shall send a Failure Notice memorandum to the employee's chain of command informing them the employee shall not carry a Less-lethal Specialty Weapon on-duty until they successfully pass the required course of instruction.
 - b. A date for remedial training within 30-calendar days will be provided on the Failure Notice memorandum.
 - c. Remedial training shall be completed within 30-calendar days of the initial failure to demonstrate proficiency. This can be extended for an additional 30-calendar days with the approval of the patrol division commander.

- d. Continued failure to demonstrate proficiency may be grounds for disciplinary action and reassignment to administrative duties.
 - 2. Employees assigned to specialty units shall achieve and maintain certification in all Less-lethal Specialty Weapon Systems required for their unit, as determined by their division commander and/or as specified in their respective Operations Manual. Specialty unit employees unable to demonstrate proficiency with a required Less-lethal Specialty Weapon shall not be allowed to carry that weapon until such time as remedial training can be conducted with a certified instructor and successfully demonstrate proficiency.
 - a. The Training Division shall send a Failure Notice memorandum to the employee's chain of command informing them the employee shall not carry a Less-lethal Specialty Weapon on-duty until they successfully pass the required course of instruction.
 - b. A date for remedial training within 30-calendar days will be provided on the Failure Notice memorandum.
 - c. Remedial training shall be completed within 30-calendar days of the initial failure to demonstrate proficiency. This can be extended for an additional 30-calendar days with the approval of the specialty unit division commander.
 - d. Continued failure to demonstrate proficiency may be grounds for disciplinary action and reassignment to administrative duties and/or reassignment to another non-specialty division.
- B. Recertification consists of successfully completing both a Less-lethal Specialty Weapon Recertification course in TheHUB and a subsequent Less-lethal Specialty Weapon Practical course. Employee's Less-lethal Specialty Weapon training shall be documented by the Training Division. If the employee's certification lapses, they shall no longer be authorized to carry or deploy a Less-lethal Specialty Weapon, as specified in this Office Policy.
- C. User certification is valid for two calendar years. For example, if an employee certified anytime during the current calendar year (06/20/2022), they would be required to recertify before the end of the second calendar year (12/31/2024).
- 4. **Storage of Less-lethal Specialty Weapons:** In order to provide for the security of Office owned Less-lethal Specialty Weapons and munitions, the following standards shall be followed:
 - A. Less-lethal Specialty Weapons shall not be left in an unattended vehicle while off-duty.
 - B. Less-lethal Specialty Weapons shall be removed from all Office vehicles at the end of each shift.
 - 1. Patrol Vehicles: When a patrol vehicle is not used during a shift, the Less-lethal Specialty Weapon shall be removed and secured in the Office facility at which the vehicle is parked, unless the vehicle is equipped with an extra locking mechanism, including but not limited to, a safe. However, caution must be exercised during extreme hot and cold temperatures by regularly exchanging and/or removing munitions from patrol vehicles, as specified in this Office Policy.

2. Assigned Vehicles: Due to the limited inventory, Less-lethal Specialty Weapons shall not be stored in an assigned vehicle, during off-duty hours. Less-lethal Specialty Weapons shall then be removed and stored at the assigned Office facility.
- C. Less-lethal Specialty Weapons and munitions shall be stored in a secured, cool, and dry area where there is no public access. Sensitivity of the munition's continuous exposure to extreme hot and cold temperatures may compromise the effectiveness, and/or integrity of the munitions. To avoid this, munitions shall be exchanged and/or removed from Office vehicles regularly between shifts during extreme conditions, as reasonably practical.
- D. Less-lethal Specialty Weapons shall be unloaded and free of any munition rounds when storing.
- E. A secure area in the building should be dedicated to Less-lethal Specialty Weapon systems and munitions storage. Access to this area should be limited to only those personnel who require it. This may be the same place where firearms and ammunitions are stored.
- F. Less-lethal Specialty Weapons should be secured in a safe or lockable storage.
- G. Each division or patrol district where employees are trained in the Less-lethal Specialty Weapon systems shall maintain a list of approved Less-lethal Specialty Weapon munitions in their respective operations manual.
 1. Division and unit commanders or designees are responsible for the inventory of their assigned Less-lethal Specialty Weapon systems and munitions.
 2. Commanders may add any necessary procedures to their operations manuals in order to safeguard their assigned Less-lethal Specialty Weapons and munitions.
5. **Less-lethal Specialty Weapon Deployment:** A Less-lethal Specialty Weapon is considered an intermediate/less-lethal weapon and any deployment of a Less-lethal Specialty Weapon projectile constitutes a use of force, as specified in Office Policy CP-1, *Use of Force*. A discharged Less-lethal Specialty Weapon projectile gains control of the subject by pain compliance, or by pain compliance and chemical agent exposure to gain physical change in behavior from a subject or compliance with verbal commands.
 - A. **The deployment procedures listed in this Office Policy shall not be all inclusive to specialty units to include Mobile Field Force, due to the complex nature of such operations and the variety of equipment, training, and tactics of their operations, and are not subject to the limitations set forth in this Office Policy; however, specialty unit munitions shall not be used interchangeably for patrol use when not operating in a specialty unit capacity.**
 - B. Incidents that may call for use of less lethal munitions include, but are not limited to:
 1. Violent subjects armed with impact weapons or non-traditional weapons such as baseball bats, clubs, sticks, shovels, etc.;
 2. Suspects armed with any type of edged weapon, such as knives or machetes; and
 3. Civil disturbances, or in the case of deployment of the Mobile Field Force.
 - C. Deployment Considerations: Less-lethal Specialty Weapons shall not be used on passive resistant subjects. It may only be used on subjects exhibiting active resistance or higher. This includes both area saturation and direct impact deployments. Whenever reasonably safe and practical to do so,

employees shall use de-escalation techniques and other alternatives to higher levels of force consistent with the employee's training before resorting to force and to reduce the need for force. When possible, deployment of less lethal weapons and munitions should be planned in order to reduce the risk of injury and/or death to deputies, innocent members of the public, and/or suspects. Considerations in Use of Force shall be followed, as specified in Office Policy CP-1, *Use of Force* in addition to this Office Policy.

1. Employees deploying Less-lethal Specialty Weapons shall have at least one other employee equipped with a lethal force weapon providing cover. This requirement does not apply when used within Office jail facilities.
2. Less-lethal Specialty Weapons and munitions should be used from a position of cover if available.
3. Prior to deploying a Less-lethal Specialty Weapon, the operator should announce, when practical, their intention to deploy the weapon in order to alert the cover officer(s) and other employees present. This is done to avoid "sympathetic fire" by the cover officers.
4. Employees shall not deploy a Less-lethal Specialty Weapon at a moving vehicle.
5. Less lethal munition should not be fired through glass or similar media unless exigent circumstances exist.
6. Less lethal weapons should be used as a last resort if a suspect is in danger of falling from a significant height.
7. Special considerations should be given when information indicates that the suspect has pre-existing physical or medical conditions that could exacerbate the effects of the less lethal deployment.

D. Target areas:

1. The preferred target areas for deployment are identified as primary and secondary target areas as follows:
 - a. Primary target areas which consist of large muscle groups such as the legs, buttocks, thighs, and calves. Care should be taken to avoid the groin and should not be intentionally targeted.
 - b. Secondary target areas which consist of medium muscle groups include abdominal area. Care should be taken to avoid the spine and kidneys when targeting the abdominal area.
2. Employees who are aware a female subject is pregnant shall not deploy direct impact rounds unless-lethal force would be justified due to the danger created by the secondary impact or possibility of muscle contractions leading to premature birth.
3. Employees shall make all reasonable efforts to avoid striking a subject in the head, neck, throat, female breast, chest, or area of the heart, genitals, or known pre-existing injury areas unless-lethal force is justified, as specified in this Office Policy.

- E. Types of Deployment: There are three types of deployment using a Less-lethal Specialty Weapon; they are as follows:
 - 1. Area Saturation Deployment: Deployment using a Direct Impact 40mm Extended Range OC Crushable Foam Rounds. This direct impact chemical agent round contains Oleoresin Capsicum irritant powder, designed to expose people, or someone who is hiding or out of view, by targeting a fixed object to expel the chemical agent in an effort to gain physical change in behavior from a subject or compliance with verbal commands. Patrol deputies shall obtain approval from an on-duty lieutenant or higher prior to deploying area saturation.
 - 2. Direct Impact Deployment: A deployment using either an Exact Impact 40mm Standard Range Sponge Round or Direct Impact 40mm Extended Range OC Crushable Rounds, and Flexible Baton Rounds designed to control with pain and is deployed directly onto the body of an actively resisting or higher subject. The rounds are directed only to the areas of the body that are authorized for less-lethal impacts, as specified in this Office Policy.
 - 3. Lethal Deployment: The use of a Less-lethal Specialty Weapons is not a substitute for a firearm during aggravated active aggression encounters. If a decision to use lethal force on a subject has been determined imminent, the Less-lethal Specialty Weapon operator should have already had cover from another employee with a designated lethal weapon at contact-ready prepared to use lethal force. This requirement does not apply when used within an Office jail facility. If the situation dictates that the employee utilizing a Less-lethal Specialty Weapon must make the lethal deployment, the Less-lethal Specialty Weapon will be deployed in the following areas:
 - a. Head, neck/throat, upper chest.
 - b. Shots taken to lethal targeting areas can result in fatal or serious injuries and should only be utilized in situations where lethal force is authorized, as specified in this Office Policy.
- F. Patrol deputies shall notify their on-duty supervisor when a Less-lethal Specialty Weapon is deployed.
- G. If death or serious injury is caused; the incident will be investigated, as specified in Office Policy GJ-2, *Critical Incident Response*.
- 6. **Medical Treatment:** In the event of a deployment, the following measures are to be taken to ensure the safety of the employees or a subject:
 - A. Employees shall provide and seek medical aid, as specified in Office Policy CP-1, *Use of Force*.
 - B. As a precaution, seek medical attention for anyone struck by a round regardless of visible signs or complaints of injury.
 - C. Additional care for a person exposed to a chemical agent deployment include, but are not limited to:
 - 1. Keep the person calm and expose them to fresh air;
 - 2. Rinse the affected areas with cool, clean water; and
 - 3. Check for unusual reactions to avoid medical emergencies.

7. **Documentation of Deployment:** Less-lethal Specialty Weapons projectile impact marks shall be documented through photographs and submitted as evidence along with any video footage of the incident, and the information shall be included in the *Incident Report* (IR). Every deployment of Less-lethal Specialty Weapons shall be documented through a Use of Force Blue Team entry and shall be routed as specified, in Office Policy CP-1, *Use of Force*.
 - A. **Documenting Pointing of a Less-lethal Specialty Weapon:** Employees, with the exception of specialty/tactical response units, shall document all pointing of a Less-lethal Specialty Weapon incident at a member of the public in Blue Team, using the Use of Force Incident Type entry within **5 calendar days** of the incident, absent exigent circumstances. All incidents involving the pointing of a Less-lethal Specialty Weapon in conjunction with pointing of a firearm (lethal cover), regardless of lethal cover deployment or not, or other method of force type deployed, such as K9 shall be documented on a Use of Force Blue Team entry as follows:
 1. Employees shall select “Less-lethal Specialty Weapon (Pointing Only)” from the “Force Used by Employee/Force Type” drop down menu, under the Involved Employee field;
 2. Employees shall provide a brief synopsis of the incident in the incident summary to include the presence of lethal cover; if de-escalation methods were effective or if other means of force had to be utilized and complete the mandatory fields to include the MC (Event) Number; and
 3. Employees should include a URL Link to any BWC video footage or download any BWC video footage that is not already captured in Evidence.com to a CD/DVD and if applicable, forward through the chain of command as needed. Once received by the EIU, the CD/DVD shall be uploaded to the EIS.
 - B. Once the Blue Team entry is completed, the employee shall forward the Blue Team entry through their chain of command to the division commander, for review and approval.
 - C. Division commanders shall review the pointing of a Less-lethal Specialty Weapon Blue Team entry and confirm whether the pointing of the Less-lethal Specialty Weapon was used appropriately to gain compliance from a subject or if lethal force could have been avoided, if applicable. Division commanders shall document their determination “Pointing of a Less-lethal Specialty Weapon only/Retention Only” or “Review Required” in their response and forward the Blue Team entry to the EIU **within 14 calendar days of receiving the entry**.
 - D. The EIU shall retain the approved Blue Team entry in the EIS for statistical data reporting use only. Pointing of a Less-lethal Specialty Weapon documentation shall not require the review of the Use of Force, unless the division commander requests a review by the Use of Force Review Committee or if another force option was deployed in conjunction with pointing of a Less-Lethal Specialty Weapon.
 - E. If misconduct is identified, the division commander shall forward a copy of the Blue Team entry to PSB for review and action, as specified in Office Policy CP-1, *Use of Force*.
 - F. Employees who discharge their Less-lethal Specialty Weapon, firearm or use a means of force resulting in injury in conjunction with the pointing of a Less-lethal Specialty Weapon incident shall follow documenting and reporting procedures, as specified in Office Policy CP-1, *Use of Force* to include completing an IR.

8. **Less-lethal Specialty Weapons Maintenance and Inspection:** Less-lethal Specialty Weapons Representatives shall ensure Office owned Less-lethal Specialty Weapons are kept clean and serviceable. All 40mm launchers will be inspected by a Less-lethal Specialty Weapons Administrator or designee for safe operation prior to being authorized for use. All less-lethal shotguns will be inspected by a Firearms Training Unit Armorer for safe operation prior to being authorized for use.
- A. Employees shall inspect less lethal specialty weapons assigned to them for daily use at the beginning of each shift.
 - B. Employees shall ensure lethal rounds are not loaded in the Less-lethal Specialty Weapon.
 - C. Employees shall carry their Less-lethal Specialty Weapon in a ready condition when in use.
 - D. The Office Less-lethal Specialty Weapons Administrator in the Training Division shall be contacted, to request repairs or modifications to the 40mm launchers by an Office Less-lethal Specialty Weapons Armorer, which the Less-Lethal Specialty Weapons Representative is not able to perform.
 - E. Employees shall contact Firearms Training Unit (FTU) at the MCSO Firearms Range, to request repairs or modifications to the less-lethal shotguns which are performed by an FTU Armorer, as specified in Office Policy GJ-23, *Firearms*.
 - F. In the event a Less-lethal Specialty Weapon, is damaged or needs to be replaced, the applicable Less-lethal Specialty Weapons Representative, the Office Less-lethal Specialty Weapons Administrator (Armorer), or the FTU Armorer shall be contacted to complete a Property Loss Notice available in Risk Management.
 - G. Less-lethal Specialty Weapons are tracked as firearms and require entering APB360 prior to being issued for service. If a Less-lethal Specialty Weapon is lost or stolen it must be entered into NCIC as a lost/stolen firearm.