

Memorandum

TO: ALL DEPARTMENT PERSONNEL **FROM: Edgardo Garcia**
Chief of Police

SUBJECT: DUTY MANUAL REVISION
L 2609 - USE OF CHEMICAL
AGENTS

DATE: June 18, 2020

Memo# 2020-029

BACKGROUND

A recent review of Duty Manual section L 2609 – USE OF CHEMICAL AGENTS, revealed a need to designate who can authorize the use of Chlorobenzylidene Malononitrile (CS) gas in crowd control situations. Language is being added to the CS gas section of Duty Manual section L 2609 to require approval from the Chief of Police, the Assistant Chief of Police or their designee before CS gas can be used for crowd control purposes.

Additionally, the language associated with using Less Lethal Impact Munitions (that carry chemical agents) during crowd control is being modified to bring it into alignment with the recent revision to Duty Manual section L 2629.5 – PROHIBITION ON THE USE OF PROJECTILE IMPACT WEAPONS FOR CROWD CONTROL.

ANALYSIS

The Duty Manual has been revised to reflect the following change to Department policy regarding chemical agents. Additions are shown in *italics and underlined*. Deletions are shown in ~~strikeout~~ form.

L 2609 USE OF CHEMICAL AGENTS: *Revised: 06-18-20*

Chemical Agents are substances designed to irritate the eyes and mucous membranes. Chemical Agents are classified as a Category II use of force for the purpose of assessment under DM L 2605.5 – COMMAND OFFICER'S RESPONSIBILITY BY USE OF FORCE CATEGORY. When properly used, chemical agents are a valuable de-escalation tool. In many instances, chemical agents can reduce or eliminate the necessity to use other force options to gain compliance.

The use of chemical agents must be justified by a suspect's active resistance and/or a credible threat of physical harm. Chemical agents can be used by officers in self-defense, on suspects resisting a lawful detention or arrest, to

prevent individuals from gathering in a specific area during an unlawful assembly, directly on violent crowds, or to encourage a suspect to exit an enclosed structure, vehicle, or open space.

Only Chemical Agents authorized by the Chief of Police will be used. Department personnel shall not use chemical agents (including delivery munitions or devices) without first receiving training from a Department approved Chemical Agents Instructor and/or Less Lethal Impact Munitions instructor.

Currently Authorized Chemical Agents include but are not limited to Oleoresin Capsicum (OC) spray, OC powder, Chlorobenzylidene Malononitrile (CS) gas, CS powder and CS liquid.

OC Spray Cannisters: All sworn Officers and Community Service Officers are authorized to use Department issued OC spray canisters containing .2% Capsaicinoid.

The following chemical agent devices may only be deployed by specialized personnel and units that have been authorized to do so by their respective Bureau Chiefs:

Aerosolized Chemical Agent Dispersal Device: Aerosolized dispersal devices containing OC, similar “pepper” irritants, or malodorants may be used with approval from a supervisor or an incident commander.

Less Lethal Impact Munitions (LLIM): LLIMs containing OC Powder, similar “pepper” irritants, or malodorants may be used with approval from a supervisor or an incident commander. When an LLIM is directed at an individual such use shall also comply with Duty Manual section DM L 2629 – USE OF PROJECTILE IMPACT WEAPONS.

NOTE ON CROWD CONTROL:

- LLIMs may be used against inanimate objects (e.g. a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or to prevent individuals from gathering in a specific area.
- *The use of LLIMs against persons for the purpose of crowd control and crowd dispersal is controlled by Duty Manual section L 2629.5 – PROHIBITION ON THE USE OF PROJECTILE IMPACT WEAPONS FOR CROWD CONTROL.* ~~When aiming an LLIM at a violent individual during crowd control circumstances, officers are reminded of their responsibility for accurate round placement and their duty to avoid striking unintended subjects. In such circumstances, officers shall consider alternate solutions if the crowd density creates an unnecessary risk of striking individuals against whom the use of an LLIM would be unjustified.~~

The following chemical agents and chemical agent devices may only be deployed by members of the MERGE Unit.

Kinetic Energy Impact Munitions (KEIM): KEIMs (e.g. ferret rounds) containing OC Powder, similar “pepper” irritants, CS powder, CS liquid or

malodorants may be used with approval from a MERGE supervisor or an incident commander. The high kinetic energy of KEIMs makes them inappropriate to direct at individual persons except in deadly force encounters (as defined in Duty Manual Section L 2602.1 – DEADLY FORCE).

NOTE ON CROWD CONTROL:

- KEIMs may be used against inanimate objects (e.g. a wall above or behind the crowd) to deploy a chemical agent for the purpose of dispersing an assembly that has been declared unlawful or to prevent individuals from gathering in a specific area.
- KEIMs will not be directed at specific persons for crowd control purposes.

CS Gas: The deployment of CS gas and delivery devices must be in compliance with the following:

- Absent exigent circumstances (e.g. officer or citizen rescue) CS munitions will not be used without prior approval from the MERGE commander or his/her designee.
- The pre-planned deployment of CS gas on a barricaded subject(s) utilizing multiple delivery methods shall be documented as a single use of force.
- Absent exigent circumstances, emergency medical personnel will be staged on-scene prior to the deployment of CS gas.
- *The use of CS gas for crowd control purposes shall be approved by the Chief of Police, the Assistant Chief of Police, or their designee.*

ORDER

Effective immediately, all sworn personnel will adhere to the above listed Duty Manual changes.



EDGARDO GARCIA
Chief of Police

EG:PC