

RISK

Less Lethal Weapons

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**Model Policy and Procedure
for Public Safety Officers**



**Michigan Municipal Risk
Management Authority
Law Enforcement Advisory Committee**

LESS LETHAL WEAPONS

MODEL POLICY AND PROCEDURE FOR PUBLIC SAFETY OFFICERS

Departments that have a good less lethal weapons policy in place, and have trained their officers in using the policy, can better protect the officers and the public.

INTRODUCTION

In today's law enforcement climate, the use of less lethal weapons can be an important contributor to public safety. Of course, it is important that officers know the proper guidelines for the use of less lethal weapons. This model policy and procedure offers MMRMA Member departments with a guide by which they can draft their own protocols for the use of less lethal weapons.

Departments that have an effective and appropriate protocol in place and have trained their officers in using the protocol, can better protect the officers and the public. While this policy and procedure is intended as a model, it can be modified by Member departments as needed to best serve the needs of each community.

POLICY STATEMENT

It is the policy of the (blank) Police Department to utilize the amount of force that is objectively reasonable considering the totality of circumstances that are confronted in order to effect an arrest, and/or accomplish the lawful performance of duty, while protecting the public.

PURPOSE

This procedure is intended to provide general guidelines for the use of less lethal munitions and the use of an Electro-Muscular Disruption Device (EMD) commonly referred to as a TASER.

APPLICATION

This order constitutes departmental policy and is not intended to enlarge the employee's or the department's civil liability in any way. It should not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims insofar as the employee's legal duty is imposed by law. Violations of this directive, if substantiated, can only form the basis for intradepartmental administrative sanctions.

DEFINITIONS

A. **Less Lethal Munitions:** These are types of munitions which can be fired, launched or otherwise propelled for the purpose of gaining

compliance, overcoming resistance, or preventing serious injury. Some common examples are beanbags, Arwen, or pepper spray.

- B. **EMD:** An Electro-Muscular Disruption (EMD) device that utilizes an electrical discharge that disrupts the body's ability to communicate messages from the brain to the muscles, causing motor skill dysfunction. Upon deployment, an air cartridge uses compressed nitrogen to project two probes into the targeted offender. The probes are attached to the power source by insulated wire leads.
- C. **Anti-Felony Identification Device (AFID):** AFID are confetti-like identification tags. Each cartridge contains up to forty (40) identification tags that are ejected when the EMD is discharged. The tags contain the serial number of the cartridge used, allowing for identification of the officer assigned to that cartridge.
- D. **Air Cartridge:** A single-use item that contains compressed nitrogen, AFID tags, two darts and the insulated wires. It is identified with a tamper-resistant serial number.
- E. **Data Port:** The EMD is designed with a data port located on the back of the unit. This data port allows for the downloading of the usage record of that weapon.
- F. **Drive Stun:** The process of utilizing the EMD as a pain compliance technique. This is done by activating the EMD and placing it against an individual's body. This can be done without an air cartridge in place or after an air cartridge has been deployed.
- G. **Medical Contact:** Contact with licensed medical personnel by way of personal contact, telephone, radio, or other electronic means in order to obtain an assessment or advice on the proper course of action, treatment, or measures to be taken with the subject who has been incapacitated.



tated by the EMD. (Consult with the appropriate medical authority in your jurisdiction to determine the level(s) of expertise required for this assessment; i.e. EMT, paramedic, nurse, physician's assistant.)

H. **Medical Clearance:** The physical transportation of the subject to the most readily available medical facility for examination, treatment, or hospitalization before incarceration back into the law enforcement environment.

I. **Objective Reasonableness:** The premise of reasonableness is for all uses of force to be objectively reasonable. In these instances, the totality of the circumstances are considered. Also considered is the severity of the suspected criminal activity; whether or not the suspect posed an immediate threat to officers or to others; and whether or not the suspect is actively resisting or attempting to evade arrest by flight.

J. **Subject Control Continuum:** The Michigan Commission on Law Enforcement Standards has published a training guide for the escalation and de-escalation of subject control. Departments are encouraged to review this training protocol while establishing their individual protocols.

It shall be the responsibility of each Member department to determine where in their own subject control continuum less lethal weapons are to be utilized.

PROCEDURE

Note: Less lethal munitions and EMDs are additional use-of-force options and not replacements for time, negotiations, appropriate tactics, or lethal force.

LESS LETHAL IMPACT MUNITIONS PROCEDURE

A. **Utilization Restrictions.** In the absence of other reasonable means, officers may deploy less lethal munitions in the performance of their police duties under the following conditions:

1. Only officers who have completed a departmental-approved less lethal munitions training program shall be allowed to carry and/or utilize less lethal munitions;
2. Only weapons specially designated, marked,

and authorized distinctively by the department as less lethal munitions, shall be utilized;

3. When stored, these specially designated weapons shall be kept in a distinct location, separated from other firearms.

B. **Conditions for Justification of Use.** Less lethal munitions will only be used after other reasonable efforts to control a violent individual have failed. Condition for justifying the use of less lethal munitions include, but are not limited to:

1. When the use of less lethal munitions would assist in the arrest of an armed and/or violent person;
2. When the use of less lethal munitions would assist in reducing the risk of injury to a suspect, bystander, or police officer;
3. To disperse crowds during riotous civil disturbances; or,
4. In situations where a supervisor deems the use of less lethal munitions necessary to safely resolve an incident.

C. **Examples of Conditions for Use Justification.** The following are examples of encounters that may justify the use of less lethal munitions. These examples are in no way reflective of the entire spectrum of circumstances:

1. A violent subject armed with a weapon such as a baseball bat, crowbar, shovel, or such a device or item which can be utilized as a dangerous weapon.
2. A subject who is armed with a knife or cutting edge.
3. Civil disturbances such as riots, violent demonstrators, and demonstrators who fail to disperse when commanded to do so.
4. Armed, mentally ill, or developmentally disabled individuals who may pose a risk to themselves, others, or police officers.
5. An unarmed, violent subject that poses too great a risk to approach within arm's reach of an officer. This could apply to a violent subject who is bleeding, biting, or endangering officers, due to the potential of transference of bloodborne pathogens.
6. An armed suicidal person who may try to force officers into shooting the subject so as to facilitate his/her own death.

Less lethal munitions will only be used after other reasonable efforts to control a violent individual have failed.



Prior to deploying less lethal munitions, it shall be announced to all officers at the scene that less lethal munitions are to be deployed.

D. Conditions *NOT* calling for the use of less lethal munitions:

Examples include, but are not limited to:

1. An unarmed person that is uncooperative but does not display violent aggression; or,
2. When the use of less lethal munitions would pose a greater risk to officers or bystanders.

E. Guidelines for authorizing the use of less lethal munitions may be as follows:

1. If the situation permits, the officers should attempt to obtain authorization from a supervisor prior to utilizing less lethal munitions.
2. **Exception:** When an imminent threat is presented to citizens or police officers, such force *may* be utilized without command approval.
3. Application of less lethal munitions during riotous situations shall be at the discretion of the command officer in charge.

F. Tactical guidelines for utilization of less lethal munitions.

1. It is recommended that, if the situation permits, a cover officer accompany the less lethal munitions officer.
2. When practical, prior to deploying less lethal munitions, it shall be announced to all officers at the scene that less lethal munitions are to be deployed.
3. The less lethal munitions will be delivered to a specific target area based on the threat and on the judgment of the officer.

G. Recommended impact areas for less lethal munitions.

1. **Primary Target Areas.** These are the major muscle areas of mass such as the legs, arms, buttocks, hips and thighs. These areas offer a low probability of causing serious injury and should be used when incapacitation is necessary but **not time critical**.
2. **Secondary Impact Areas.** These are areas of the human body considered to be the center of mass areas such as the abdomen and chest area. These areas should be considered for impact when an escalation of force and

immediate incapacitation is necessary and appropriate. **An increase in the potential for death or serious physical injury must be recognized.**

3. **Deadly Force Impact Areas.** These are areas of the body which when struck **may cause serious injury or death**. These are usually associated with the head, neck, throat and groin. Intentional impacts to these areas should be avoided unless the use of deadly force is justified and necessary.
4. **Impacts to the Rear of the Subject.** Impacts to the back should be avoided in all less lethal impact munitions. **Striking the spinal area could cause permanent injury.**

H. Medical attention and subsequent responsibilities.

1. Whenever less lethal munitions are used the officer shall, after the individual has been secured, promptly determine if there is a need for medical contact or medical clearance.
2. The officer must notify the supervisor and document the incident. It is recommended that photographs be taken of the impact area of the individual's body.
3. Involved personnel shall attempt to locate and identify any witnesses to the incident.
4. The deploying officer shall complete both an incident report and the appropriate USE OF FORCE report.
5. Corrections or jail officer shall be notified that less lethal weapons had been deployed on the subject prior to incarceration.

NOTE: If injuries requiring hospitalization or death occur, MMRMA must be notified immediately, if incident occurs during normal business hours. During non-business hours, MMRMA must be notified the next regular business day (this text is not to be included in policy/procedure document).

EMD PROCEDURE

A. Elevated EMD Application Risk Factors

The following factors, where apparent to involved officers, require elevated justification of EMD application. Under the following conditions, the risk of foreseeable direct or secondary injuries are elevated; thus, officers' justification (s) for EMD application are also elevated. These



elevated risk factors can only be given consideration when the factors are reasonably perceived by the officers:

1. Presence of flammable liquids/fumes or explosive environments
2. Elevated positions
3. Person operating moving vehicle or machinery
4. Person running (fleeing)
5. Pregnant female
6. Swimming pool or other body of water
7. Intentional EMD application to sensitive areas
8. Frail or infirm individual
9. Non-standard repeated EMD applications

B. Societal perceptions & concerns creating need for elevated justification factors

The following factors involve groups of people from which the general public commonly assumes that individuals are not capable of being an imminent threat of death and /or serious bodily harm, or that these people should be treated more sensitively and compassionately by officers. Officers understand that the realities are that individuals from each of these groups do commit violent crimes, can be an imminent threat of death and /or serious bodily harm to officers, others, and themselves, can be so resistive that the use of EMDs are eminently justified, etc. However, since society generally places individuals within these groups into protected classes, officers using an EMD on one of these individuals will foreseeably be placed under heightened scrutiny and will likely be required to provide additional justification(s) for the use of the EMD. These groups include:

1. Children
2. Seniors
3. Restrained subjects
4. Passive subjects who are being seized

C. Deployment Considerations

1. The decision to use the EMD is based on criteria similar to that which an officer utilizes when selecting to deploy other less lethal force options. The decision must be made dependent on the actions of the subject(s) or threat facing the officer(s) and the totality of the circumstances surrounding

the incident. The use of the EMD must be objectively reasonable.

2. The EMD is **not** meant to be used in place of deadly force. However, there are tactical strategies that, when applied properly, may allow the EMD to be utilized.
3. The EMD should not be used without deadly force back-up in those situations where there is a substantial threat towards the officer(s) or others present.
4. Prior to utilizing the EMD, officers shall take into consideration:
 - a) the subject's actions;
 - b) multiple subjects and the number of officers present;
 - c) the skill and/or strength level (ability to resist) of the subject(s);
 - d) the ability of the officer to gain physical control of the subject; and,
 - e) the age of the subject.

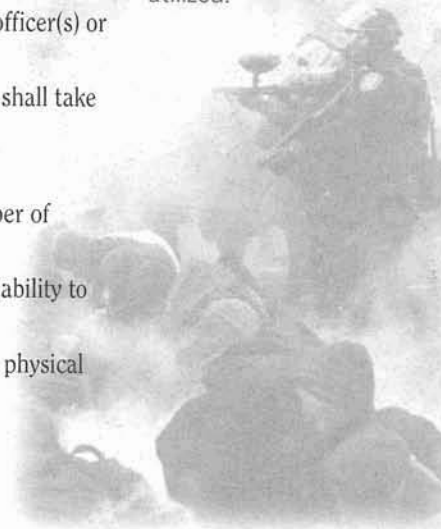
D. Issuance and recording of EMD

1. All departmental personnel shall carry and use only the Electro-Muscular Disruption device issued by the Department's administration.
2. Officers may only use Department issued EMD cartridges.
3. A record of the cartridge serial number shall be recorded with the issuance of each EMD. An administration designee should audit this log at least two times each year.
4. A log of EMD deployments shall be kept.

E. Training and Certification

1. Only officers who have successfully completed appropriate training may carry or utilize the EMD.
2. A mandatory re-certification program shall be successfully completed annually (*Administrators, please note importance of this requirement*).
3. Any officer using a 35' cartridge must receive special training and be qualified regarding the foreseeable trajectory of cartridge deployment.
4. All Department EMD certification programs will be presented by a TASER International, Inc., certified (or equivalent) EMD instructor. The EMD instructor must be certified with both the M26 and X26.

The EMD is not meant to be used in place of deadly force. However, there are tactical strategies that, when applied properly, may allow the EMD to be utilized.



Immediate action should be taken to care for the injured, to apprehend any suspects, and to protect the crime scene.

F. Use of EMD

The EMD is an additional law enforcement tool and is not intended to replace firearms or replace other equipment, tools, or techniques. The EMD should be used only when it is appropriate for the situation. The utilization of a EMD is considered use of force and as such, must comply with the departmental use of force guidelines. Any use of an electro-muscular disruption device that is deemed unreasonable shall subject the officer to disciplinary action.

1. The EMD may be used in situations where a subject is threatening himself, an officer, or another person and other means of controlling the subject are not reasonable or could cause injury to the officer, the subject, or others. Examples of these situations include, but are not limited to:
 - a) To stop potentially dangerous behavior.
 - b) To protect a person or officer from injury or death.
 - c) To protect a subject from injuring him/herself.
 - d) To maintain order within a facility.
 - e) In situations that require gaining/maintaining control of a subject or situation.
2. The EMD may be used when factors indicate the officer, offender, or others would be endangered by the use of other force alternatives or equal force options which may be ineffective due to the danger existing to the officer, subject, or other.
3. The body's center of mass area should be the target area when firing a EMD, particularly the center mass of the back area. The head and face should not be targeted unless the appropriate level of force can be justified. If these areas are not accessible due to heavy clothing, the legs are an effective target area.
4. Upon firing the device, the officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective. The subject may be secured as soon as practical while disabled by EMD power to minimize the number of deployment cycles.
5. The EMD should never be used punitively or

for purposes of coercion.

6. Any repeated application of the EMD must be justified and the criteria used to justify re-deployment shall be clearly documented in the officers USE OF FORCE report.
7. When practical, the deploying officer should also notify dispatch that a EMD is going to be deployed. The deploying officer should also notify assisting officers that they intend to deploy a EMD.
8. If feasible, immediately prior to the use of the EMD, the deploying officer should announce in a loud, clear, commanding voice, his/her intent to deploy the EMD. This announcement should be made only if it would not endanger any civilians, officers, or the suspect.
9. The EMD has the ability to ignite flammable liquids. It shall not be deployed at subjects who are in contact with flammables or in environments where flammables are obviously present.

Personnel should be especially aware of this when in known clandestine lab environments. The EMD shall NOT be deployed in conjunction with flammable or ignitable chemical munitions. The risk of clothing/material ignition is significant.
10. Proper consideration and care should be taken when deploying the EMD on subjects who are in an elevated position or in other circumstances where a fall may cause substantial injury or death.

G. Responsibilities after deployment

1. Immediate action should be taken to care for the injured, to apprehend any suspects, and to protect the crime scene.
2. Once the subject is restrained or has complied, the EMD should be turned off.
3. Provide that the suspect's injuries (if any) are appropriately treated. The officer should determine if medical contact or medical clearance is necessary. **NOTE:** Departments may elect to set a uniform standard of treatment required for all officers to follow.
4. Special care should be followed to inspect for any secondary injuries related to the incident.



5. EMD probes should be removed at the earliest opportunity. These probes shall only be removed by trained personnel or medical personnel, keeping in mind blood-borne pathogen concerns.
6. Officers shall provide first aid following removal of the probes by applying an antiseptic to the probe sites as needed.
7. Medical personnel shall remove probes located in sensitive areas such as the face, neck, groin or breast.
8. **Officers should inspect the probes after removal to ensure that the entire probe and probe barb has been removed. In the event that a probe or probe barb has broken off, the subject should be provided with the appropriate medical attention to facilitate the removal of the object.**
9. Medical contact may be made to further assess the condition of the subject. If conditions warrant, the subject shall be transported to the nearest medical facility for medical clearance.
10. Medical treatment shall not be refused to a subject requesting it.
11. When lawful and appropriate to do so, photographs should be taken of probe impact sites and any other related injuries as soon as reasonable to do so.

In some instances photographs may *not* be taken, such as in some cases of juveniles or when the probes impacted genitals, female's breasts, etc. It is important to preserve evidence of the EMD use; however, it is also important to not violate any medical, HIPAA, or privacy statutes or other legal restrictions.
12. Probes that have been removed from the skin shall be treated as biohazard sharps and placed as evidence within an appropriate container.
13. If probes are still embedded in the subject, avoid transporting the subject in a position that would foreseeably further embed the probes in the subject.
14. When used operationally, the officer should collect the cartridge, wire leads, and probes and process as evidence. AFIDs need only be collected if reasonably necessary and there is

a question of who fired a cartridge.

15. Involved personnel shall attempt to locate and identify any witnesses to the incident.
16. The deploying officer shall complete both an incident report and the appropriate USE OF FORCE report.
17. Corrections or jail officer shall be notified that the EMD had been deployed on the subject prior to incarceration.
18. In the event of an accidental EMD cartridge discharge, the officers shall promptly notify their next level of command. The superior officer shall reasonably investigate the incident and prepare a written report documenting the incident. Alternatively, the supervisor shall have the officers prepare a written report and then the supervising officer shall make appropriate notifications and/or take other appropriate actions.

***NOTE:** Use of force reports outlining the details of the EMD deployment must be sent to Michigan Municipal Risk Management Authority (MMRMA) within seven (7) calendar days.*

Before adopting this policy/procedure, departments must evaluate their specific types of less lethal munitions and revise the appropriate nomenclature and strategies.

In the event that the use of force incident involving the EMD results in injuries requiring hospitalization, MMRMA shall receive an immediate telephone notice (next business day if incident occurred during non-business hours).

If death occurs, MMRMA must be notified immediately during business hours or through its emergency 24-hour telephone line, 1-800-243-1324 (This note is not to be included in your department's protocol).

CONCLUSION

MMRMA's Risk Management Department is available to assist Members in establishing policy and procedural guidelines. Call for more information, answers to specific questions, or personal consultation. Members of the Law Enforcement Committee will be planning additional resources for distribution to MMRMA Members. Your suggestions and comments are welcome.

Before adopting this policy and procedure, departments must evaluate their specific types of less lethal munitions and revise the appropriate nomenclature and strategies.



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A publication for Members of

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