

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: USE OF FORCE – PEPPERBALL

O-200

EFFECTIVE:	REVIEWED:	REVISED:	UPDATED:
January 11, 2001	02-05-21	02-05-21	02-05-21

APPROVED BY: Detentions Bureau Chief Deputy James Morrison

REFERENCE: DBPPM A-1500, D-600; DPPM F-100, F-200 and F-400, Penal Code 4023.8(h)

POLICY

The purpose of this policy is to establish the acceptable applications of the Pepperball projectile launcher, training requirements related to the use and maintenance of the launcher, medical care of those exposed to Pepperball projectiles, and reporting requirements relevant to the use of the Pepperball Launcher within the Sheriff's Office Detentions Facilities.

Pepperball Launchers are intended to facilitate a safe and effective response to situations that may jeopardize the lives and safety of personnel, inmates, and/or the security of the jail facility.

Definitions:

For the purposes of this policy, the following definitions will apply:

- Pepperball Projectiles are plastic spheres that are designed to burst on impact when delivered by an air-powered launching device, releasing the contents of the projectiles. There are several types of Pepperball projectiles, some of which may be used for formal training or by specialized tactical response teams. For the purposes of this policy, "Pepperball projectiles" shall refer to those projectiles that are filled with Oleoresin Capsicum II (O.C.) PAVA powder.

The O.C. in Pepperball projectiles subdues individuals by strongly irritating their nose, lungs, and breathing. When inhaled, Pepperball products lead to coughing, shortness of breath, and, in some instances, vomiting. Some individuals experience eye irritation as well. Response to inhaling Pepperball projectile O.C. powder varies

greatly among individuals. In most cases the symptoms last for a few (five to ten) minutes.

There are two tactical applications for the Pepperball Launcher:

- First, it may be used as an **area treatment** device to deploy chemical agents (area treatment). When used in this manner, the launcher will be pointed towards a solid object such as a ceiling, wall, or the ground and is effective at distances up to 150 feet.
- Second, subject to the limitations in Procedure C, it may be used as a **direct impact** weapon against an individual. When used in this way, the launcher may be directly fired at a target at a minimum distance of 3 feet. The Pepperball Launcher can deliver the projectiles with enough kinetic energy to produce temporary abrasions, bruises, and/or welts.
- Deploy means to remove the launcher from storage for possible use in an incident or emergency.
- Use means to fire the launcher at a subject, either for direct impact or area treatment.

Directive #1

Any time a Pepperball Launcher is used operationally by Detentions Bureau staff, the following sections of the Departmental Policy and Procedures manual shall apply:

- F-100 Use of Force - General
- F-200 Use of Force Reporting
- F-400 Use of Oleoresin Capsicum

Any time the Pepperball Launcher is deployed, the report for the incident will include documentation of the launcher's deployment.

- If the launcher is used on a subject (including for area treatment) the incident shall be documented as required in DPPM Section F-200.
- The cleanup procedures detailed in Procedure E below shall be documented in a supplemental report.

Directive #2

Only departmentally issued launching systems and projectiles are authorized for use.

Procedure A: Training and Qualification

Pepperball Launchers will only be used by staff members who have completed the departmentally provided Pepperball training course.

Staff trained in the use of the Pepperball Launcher will be required to attend and pass an annual qualification refresher course consisting of loading and charging the High-Pressure Air (HPA) Bottle, malfunction drills, storing, firing the launcher, projectile properties, deployment, and policy review.

The STC Training Unit will maintain a list of personnel trained in the use of the Pepperball Launcher.

Procedure B: Deploying the Pepperball Launcher

Staff will obtain the Shift Supervisor's approval prior to deploying a Pepperball Launcher unless an emergency situation prevents a deputy from obtaining prior approval. Should such a situation exist, staff may deploy the Pepperball Launcher as described in this policy and will notify the supervisor as soon as possible.

Personnel assigned to deploy the Pepperball Launcher are responsible for ensuring that the appropriate Pepperball projectiles are loaded in the launcher and verifying the operational status of the launcher by ensuring that:

- The launcher is on safe prior to deployment;
- The HPA bottle has enough air and is properly seated in the Pepperball Launcher.

Whenever feasible, the operational status of the launcher should be verified by another qualified deputy prior to use.

Once the Pepperball Launcher is no longer needed, the staff member assigned to the launcher will return it to its assigned secure storage area. Prior to storing the launcher, staff will ensure that:

- The launcher is on safe;
- The HPA bottle pressure gauge is at a minimum of 1500 psi;

- The hopper is full of Pepperball projectiles.

Procedure C: Use of the Pepperball Launcher

The decision to use Pepperball, as with any use of force, must be objectively reasonable for the situation in which it is used.

Pepperball combines chemical agents and an impact weapon together. Although the impact of a Pepperball projectile is less than that of a baton strike, deputies must take into account the impact characteristics when determining if direct impact is objectively reasonable for the situation.

Examples of situations where Pepperball may be used include, but are not limited to:

- When an inmate exhibits violent or potentially violent behavior that threatens the safety of others and attempts to subdue the subject by using verbal communication skills, defensive tactics techniques, and/or conventional O.C. spray have not been or reasonably appear unlikely to be effective; or
- When it is unsafe for a deputy to approach an inmate within contact range; or
- To defend one's self or another from an aggressive and/or attacking inmate; or
- To disperse unruly or rioting inmates threatening unlawful property damage or physical force; or
- After ample verbal warning, an inmate refuses to comply with a lawful order and the inmate takes an aggressive posture (i.e., clenched fists, fighting stance, etc.), or makes aggressive movements toward deputies.

DIRECTIVE C-1

The following provisions will be adhered to when using the Pepperball Launcher:

- Personnel using the Pepperball Launcher shall avoid intentionally targeting or striking the head, neck, throat, face, eyes, spine, or groin of a suspect unless the use of deadly force is justified. Although considered a less lethal device, Pepperball projectiles can cause serious injury if they strike these areas of the body.

- Area treatment shall be given first consideration in situations involving inmates confined to a closed and contained area (e.g., a holding or housing cell) when there is no immediate threat of injury to any person.
 - If area treatment proves ineffective or the situation escalates, then consideration may be given to direct impact.
- In cases where an inmate is restrained, the Pepperball Launcher shall not be used for direct impact unless direct impact is objectively reasonable to stop an occurring physical assault or threat of an immediate physical assault against any person.
- Mere verbal threats, not accompanied by the present ability to carry out the threat, will not justify the use of the Pepperball Launcher as a direct impact weapon. The Pepperball Launcher may be used as an area treatment device as long as it falls within the guidelines of this policy.
- Penal Code Section 4023.8(h) strictly prohibits the use of a TASER, Oleoresin Capsicum (pepper spray), or exposures to other chemical weapons on an “incarcerated” pregnant female.
 - Whenever staff has knowledge or believes that an inmate is pregnant, the Pepperball Launcher will not be used for direct impact or area treatment against that inmate.
 - In situations where the Pepperball Launcher may be used in a location where pregnant inmates may be exposed to the Pepperball powder, reasonable steps will be taken to remove the pregnant inmate(s) or otherwise avoid exposing them to the Pepperball powder.
 - For the purposes of this policy, an incarcerated pregnant female is a person that has received a booking number, whether booked into an actual jail facility or absentee booked away from a jail facility.

Procedure D: Medical Considerations and Examinations

The Shift Supervisor will ensure that any inmate(s) struck by a Pepperball projectile, after being secured and searched, will be cleared by medical staff as soon as reasonably possible.

A normal reaction to Oleoresin Capsicum may consist of the following:

- Red and watery eyes;

- Swelling and discharge of the mucous membranes;
- Coughing and shortness of breath;
- Intense feeling of burning at the exposed area;
- Discoloration of the skin (due to powder).

Deputies should initiate immediate medical attention when:

- Gagging, or breathing difficulties persist beyond an initial period of two to four minutes; or
- The person loses consciousness, sweats profusely, appears to be very sick; or
- Still significantly suffers from effects of the Oleoresin Capsicum more than forty-five minutes after exposure; or
- The deputy is aware the inmate suffers from bronchitis, asthma, emphysema, or similar respiratory disease.

Inmates who have been exposed to Pepperball powder will be given an opportunity to decontaminate as needed in accordance to the relevant training as soon as it is reasonably safe to do so. The opportunity to decontaminate will be documented in the relevant incident report.

Inmates exposed to the Pepperball projectiles who need to be transported in a vehicle will be transported in an upright position with the seat belt buckled.

Staff will not:

- Transport inmates lying face down or face up on the back seat;
- “Hog Tie” inmates by connecting foot and hand restraints;
- Cover an inmate’s mouth or nose except with an approved mask.

Procedure E: Clean Up Procedures

The cleanup procedures listed below are intended to minimize unnecessary exposure to O.C. powder and to reduce contamination of adjacent areas.

Staff supervising clean up after use of a Pepperball Launcher will:

- Provide individuals assigned to clean areas where Pepperball projectiles were used with a dust mask, gloves, and other personal protective gear available as deemed necessary;
- Ensure that O.C. powder is collected by sweeping the powder residue, using a dustpan and a hand broom in slow motions to minimize airborne particles;
- Ensure that O.C. powder is placed inside a red hazardous waste bag and then placed in a clear plastic bag in accordance with DBPPM D-600, Procedure B;
- Have the area cleaned using soapy water (mop bucket or hand towel);
- **Document completion of the cleanup procedures in a JMS supplemental report to the original JMS incident report documenting the Use of Force.**

Procedure F: Storage and Maintenance of the Pepperball Launcher

Pepperball Launchers and projectiles shall be stored in a secured area to prevent unauthorized use.

Each detention facility that stores and uses a Pepperball Launcher shall have a designated deputy responsible for the maintenance, storage, and operational readiness of the system. All repairs to the Pepperball Launcher will be made by a Detentions Bureau Pepperball armorer.

Procedure G: Compliance Audits

The Compliance Section will conduct annual audits of Pepperball uses to determine compliance with the provisions of this section and to identify training needs and policy issues. Such audits will be conducted in coordination with a Pepperball instructor. The audit report shall be forwarded to the section and division managers, and to the Detentions Bureau Chief Deputy.