



King County

Office of Law Enforcement Oversight

January 19, 2018

TO: Sheriff Mitzi Johanknecht, King County Sheriff's Office (KCSO)

FR: Deborah Jacobs, Director, Office of Law Enforcement Oversight (OLEO)

RE: Less Lethal Shotgun policy, General Orders Manual (GOM) 6.04.055

We were very pleased to learn that KCSO will review its policies before implementing the new less lethal shotgun (also referred to as the "beanbag shotgun") force option. We offer the recommendations below for revisions to the Less Lethal Shotgun policy, GOM 6.04.055. We based our recommendations on research into legal issues, policies from other law enforcement departments, and news articles covering beanbag shotgun deployments. We strongly believe these policy recommendations can protect members of the public and deputies alike.

The beanbag shotgun can be a valuable tool in saving lives, especially in circumstances where deputies are confronted with a person in behavioral crisis that is armed or acting violently. However, beanbag rounds can cause serious injury or be lethal. For example, if deployed in too close proximity to the subject or if the subject is hit in the face or neck.¹ For this reason, as you will read in our recommendations, deputies should not target the face or neck and instead should target the body areas listed in section 8 below unless deadly force is justified. We understand that in reality a subject could still be hit in the face or neck, perhaps due to their own actions, even if those areas were not targeted. Deputies can articulate such circumstances in their use of force forms/narratives.

At this time our recommendations do not include a minimum distance for firing the beanbag shotgun, but we strongly encourage you to consider including a minimum distance and recommended distance range in the policy after consultation with firearms experts.

Thank you for considering our suggestions.

6.04.055

LESS LETHAL SHOTGUN: 12/17

1. Deputies who elect to carry a less lethal shotgun, either KCSO or City owned, shall not carry any other shotgun to avoid mixing of rounds.
 - No lethal shotgun rounds will be allowed in any vehicle equipped with a less lethal shotgun.
2. Deputies must successfully complete a department authorized less lethal shotgun training and certification course prior to using a less lethal shotgun.
 - 40. —Each authorized user of less lethal shotgun shall recertify annually.

¹ http://www.oregonlive.com/portland/index.ssf/2009/11/experts_say_tactical_choice_of.html (last visited Dec. 13, 2017); <http://www.kansas.com/news/local/crime/article185785463.html> (last visited Dec. 13, 2017); *Deorle v. Rutherford*, 242 F.3d 119 (9th Cir. 2001).

3. The less lethal shotgun is an additional tool and is not intended to replace firearms or self-defense techniques.
 - Deputies should consider having a lethal cover officer when deploying a less lethal shotgun.
4. The less lethal shotgun may be used to control physically resistive, or aggressive or violent subjects who pose an imminent threat of physical harm to themselves, to the deputies or to other persons or property.
5. A verbal warning shall be given, "when feasible", to a suspect before deployment of bean bag rounds (Deorle v. Rutherford, 242 F.3d 119, 9th Circuit 2001). Saying the word "bean bag" is not sufficient. A more appropriate warning would be: "Sheriff's Office. Drop the weapon or you will be shot with a bean bag round."
6. The number of bean bag rounds delivered must be justified and should be based on whether or not they are effectively achieving the intended outcome.
7. Deputies shall not target the person's head or neck unless deadly force is justified.
8. In circumstances where deadly force is not justified, deputies should direct the beanbag round toward the following areas:
 - Lower abdomen, at belt level, unless individual is visibly pregnant
 - Buttocks
 - Arm below the elbow
 - Thigh area
 - Legs below the knee
9. Deputies shall not use beanbag rounds against an individual in a crowd unless the officer has approval of a supervisor and can:
 - Target the specific individual who poses an immediate threat of causing imminent physical harm; and
 - Reasonably assure that other individuals in the crowd who pose no threat of violence will not be struck by the weapon.
10. Deputies should not use beanbag rounds in the following circumstances unless there are compelling reasons to do so which can be clearly articulated:
 - Where the individual is on elevated location from which falling will potentially cause serious injury or death.
11. Beanbag rounds should not be shot through glass or a chain link fence due to the likelihood of rupturing the beanbags and having the contents injure others.
127. The shotgun authorized for less lethal munitions shall be clearly marked with an orange stock and fore grip.
 - a. The words "Less Lethal" must be clearly marked on the weapon.
 - b. Only 23DS Drag Stabilized Bean Bag rounds will be used by personnel assigned to patrol.
 - Other, previously approved, less lethal rounds may be used by members of Tac-30 or when specifically authorized by an incident commander.
138. Whenever a bean bag round strikes an individual, a Fire Department Aid or Medic Unit shall be called to the scene.
 - Treatment at a medical facility will only be necessary on the advice of aid personnel.
149. Uses of force involving less lethal shotguns will be documented on the Less Lethal Shotgun Use form (KCSO Form #A-165). Upon completion and review by a supervisor this form will be forwarded to the Range for statistical purposes.
- ~~10. Each authorized user of less lethal shotgun shall recertify annually.~~