



SECRETARY OF THE ARMY
WASHINGTON

03 FEB 2016

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2016-03 (Authorizing Use of Less-Lethal Force by Army Law Enforcement Personnel)

1. References. A complete list of references is at the enclosure.
2. Purpose. In accordance with Department of Defense (DoD) Directive 5210.56, paragraph 4d (reference b), this directive provides supplemental guidance to Department of the Army (DA) law enforcement and correctional officers for the use of the launched electrode stun device, oleoresin capsicum (pepper spray), and the expandable or straight baton. This directive does not change current training standards or performance measures.
3. Applicability. This directive applies to the following personnel in the active and reserve components, who for the purpose of this directive are referred to as law enforcement personnel:
 - DA military and civilian personnel engaged in security, law and order, correctional, or counterintelligence activities (including Army law enforcement officers and correctional or security guards).
 - DA contractor personnel (U.S. or non-U.S. individuals) required to carry a firearm in accordance with applicable U.S. or host nation laws or international agreements.

The directive does NOT apply to:

- DA personnel in an overseas location not under the authority or subject to the control of a U.S. military commander as agreed to by appropriate memorandum of agreement in accordance with DoD Instruction 5210.84 (reference c).
 - DA military personnel engaged in military operations subject to the rules of engagement. These personnel are subject to the policy in Chairman Joint Chiefs of Staff Instruction 3121.01B (reference e).
4. Less-Lethal Force. Law enforcement personnel may employ less-lethal force with the reasonable amount of force necessary under the circumstances to detain or effect a lawful arrest or apprehension of a resisting subject, or to otherwise accomplish the lawful performance of assigned duties as described in this paragraph. In the context of use of force, this directive uses the term "less-lethal" instead of "nonlethal" because personnel cannot guarantee that properly employed "less-lethal" force will not

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inadvertently cause severe injury or death. Employment of less-lethal force may include the use of nonlethal weapons (NLW).

a. Law enforcement personnel using NLW during the employment of less-lethal force, as well as the party the tactic was used against, will be evaluated by medical personnel as soon as the situation allows.

b. Law enforcement personnel may use less-lethal force:

(1) against persons assaulting other persons or themselves to prevent injury and/or continuation of the assault when lesser means of force have failed or are not considered a viable option in accordance with Army Regulation 190-14 (reference g);

(2) against persons offering physical resistance to lawful arrest or apprehension when alternatives to the use of force have failed or are not considered a viable option;

(3) against persons passively resisting a lawful, full-custody arrest or apprehension when alternatives to the use of force have failed or are not considered a viable option:

(4) to prevent the escape of a prisoner;

(5) to prevent the destruction of DoD property;

(6) against animals menacing or attacking a person or themselves;

(7) to quell a major or minor disturbance within a correctional facility;

(8) to quell a riot or civil disobedience; and

(9) to move or incapacitate an unruly prisoner.

5. Launched Electrode Stun Device (LESD). An LESD is an electronic control device used to temporarily incapacitate a noncompliant subject with an electrical stimulus delivered by direct contact or propelled probes. This electrical stimulus affects the sensory and motor functions of the central nervous system, interrupting voluntary control of skeletal muscles and causing immediate, involuntary muscle contractions. The intended effect is neuromuscular incapacitation to ensure the compliance of the noncompliant subject. An LESD is intended to minimize injury to law enforcement personnel, noncompliant subjects, and innocent bystanders. The timely and appropriate use of the LESD can quickly deescalate situations before conditions lead to an increased escalation of force.

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a. Performance measures for subduing a subject using an LESD are in task 191-389-0057 of Special Text (ST) 19-LESM (reference i).

b. An LESD is an NLW capability and is not intended to replace firearms or lesser means of force. Law enforcement personnel may use an LESD when all of these conditions are met:

(1) one of the circumstances in paragraph 4b is present;

(2) lesser means of force options have been, or likely will be, ineffective;

(3) it is reasonable for law enforcement personnel to expect that it will be unsafe to approach within physical contact range of the subject; and

(4) law enforcement personnel determine that deadly force is not justified or necessary.

c. Before employing an LESD, law enforcement personnel must assess how effective it will be in their given situation. The decision to use an LESD will depend on the totality of the circumstances, including but not limited to, the subject's level of resistance, the nature of the threat to the law enforcement personnel or others, the severity of the subject's suspected crime, and the overall hostility of the situation. After employing an LESD, law enforcement personnel must determine whether the situation warrants further employment based on the continuing presence of the conditions in paragraph 5b and the totality of the circumstances.

d. An LESD is not a substitute for deadly force, and law enforcement personnel should not use it in situations where deadly force is necessary.

e. Before employing an LESD, law enforcement personnel will give an oral warning and commands to a resisting subject when and if the situation permits. Oral warnings and commands are not necessary if the threat to law enforcement personnel or to the safety of others dictates immediate action.

f. The use of an LESD may eliminate the need for hands-on active countermeasures. Law enforcement personnel may use empty-hand control tactics before employing an LESD as the situation dictates. However, they are not required to attempt empty-hand control tactics if they believe those tactics would be dangerous or ineffective.

g. Notwithstanding the guidance in paragraph 5b, law enforcement personnel will not use an LESD:

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(1) when it is known that the subject has come into contact with flammable liquids or is in a flammable environment;

(2) when the subject is in a position where falling may cause significant injury or death;

(3) as a punitive measure to coerce an uncooperative subject; or

(4) to awaken an unconscious subject (for example, as a result of intoxication).

h. Additionally, law enforcement personnel will not use an LESD in the following circumstances unless absolutely necessary:

(1) on a subject operating a motor vehicle,

(2) on a subject gripping a firearm,

(3) on women known or suspected to be pregnant,

(4) on persons perceived to be 60 years of age or older,

(5) on persons perceived to be disabled, or

(6) on persons perceived to be children 14 years of age or younger.

i. Post-Employment Responsibilities

(1) After using an LESD on any subject, law enforcement personnel must seek medical treatment or clearance from medical personnel before further processing the subject.

(2) If an LESD's probes are lodged in soft tissue areas near the eye, throat, ear, groin, or genitals, law enforcement personnel will summon medical personnel to the scene to remove the probes or will transport the subject to the nearest medical facility.

(3) During processing, the apprehending law enforcement personnel will inform detention center personnel that he or she used an LESD against the subject. The law enforcement personnel will not transfer a subject to a detention center after use of the LESD if the probes have not been removed, or if the subject has not received requested or required medical care.

6. Oleoresin Capsicum (OC) Spray. The Army M39 Individual Riot Control Agent Dispenser (IRCAD) contains OC or "pepper spray" and is intended for law enforcement

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personnel to use in self-defense and to control rioters, prisoners, and hostile subjects. The M39 IRCAD provides a safe and effective way to subdue a subject without causing permanent injury. The dispenser, which contains enough OC for fifteen 1-second bursts, has an operational range of 10 to 30 feet.

a. ST 19-LESM, tasks 191-376-5108 and 191-389-0037, outline performance measures to subdue a subject with OC spray during the performance of law enforcement duties. STP 19-31E1-SM, tasks 191-31E-0042 and 191-31E-1369, (reference j) outline performance measures for use of OC spray while in a correctional facility.

b. Medical Considerations. If law enforcement personnel use OC to subdue a subject, they must:

(1) begin the decontamination process after they have taken the subject into custody;

(2) reassure the subject and monitor him or her for medical distress, coherence, and respiration during transport;

(3) seek immediate medical assistance upon any sign of medical distress; or

(4) seek medical assistance if the direct effects of the OC spray do not dissipate within 1 hour.

7. Expandable or Straight Baton. Law enforcement personnel use the baton for self-defense and keeping rioters and/or hostile subjects out of arms reach. They may employ the baton in situations where the use of a firearm is not authorized or necessary, and when they reasonably believe that a lower level of force will be ineffective or jeopardize their safety.

a. Authorized Use. Law enforcement personnel may use the baton as a defensive instrument to block or strike an assailant. The subject's actions and level of resistance will determine how law enforcement personnel use the baton. ST 19-LESM, task 191-376-5210 outlines performance measures (for example, appropriate and inappropriate strike areas) to subdue a subject with a straight baton while performing law enforcement duties. STP 19-31E1-SM, task 191-376-4140 outlines performance measures when using a riot baton as a member of a riot control formation.

b. Location of Use. Law enforcement personnel must be careful when employing the baton on vital areas of the body, such as the head, neck, or spine. Baton blows to the head can cripple or kill. Law enforcement personnel will not use the baton to apply pressure to the head, neck, or throat.

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8. Jurisdiction and Authority

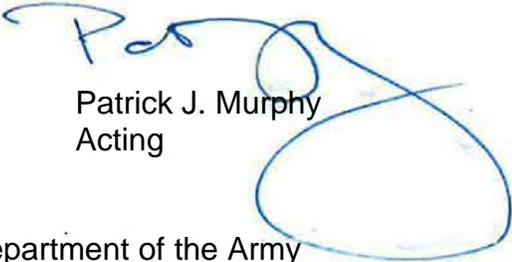
a. The director of emergency services, commander of the correctional facility, or provost marshal for each installation, in coordination with the senior or garrison commander and Staff Judge Advocate, may place further limitations on the use of the LESD, OC, and/or baton beyond what this directive provides. The servicing Staff Judge Advocate is critical in analyzing the particular installation's jurisdictional arrangement and determining whether State law (for U.S. installations) or host nation law (for non-U.S. installations) affects the use of the LESD, OC, and baton on the installation.

b. After consultation with the servicing Staff Judge Advocate or legal advisor, commands and organizations will conduct the appropriate level of inquiry in accordance with AR 15-6 (reference f) for all incidents involving law enforcement personnel's application of physical force in the line of duty. Commands and organizations will file the completed inquiry as an enclosure within the Law Enforcement Report.

9. Commands and organizations must fulfill statutory and contractual labor relations obligations in implementing this directive.

10. The Provost Marshal General is the proponent for this policy and will incorporate the provisions of this directive into AR 190-14 as soon as possible. This directive will be rescinded upon publication of the revised regulation.

Encl


Patrick J. Murphy
Acting

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Director, U.S. Army Corrections Command

REFERENCES

- a. DoD Directive 3000.03E (DoD Executive Agent for Non-Lethal Weapons (NLW), and NLW Policy), April 25, 2013.
- b. DoD Directive 5210.56 (Carrying of Firearms and the Use of Force by DoD Personnel Engaged in Security, Law and Order, or Counterintelligence Activities), April 1, 2011.
- c. DoD Instruction 5210.84 (Security of DoD Personnel at U.S. Missions Abroad), January 22, 1992, Administrative Reissuance Incorporating Change 1, October 15, 1996.
- d. DoD Instruction 5525.15 (Law Enforcement (LE) Standards and Training in the DoD), April 27, 2012.
- e. Chairman Joint Chiefs of Staff Instruction 3121.01B (Standing Rules of Engagement/Standing Rules for the Use of Force for U.S. Forces), 13 June 2005.
- f. Army Regulation (AR) 15-6 (Procedures for Investigating Officers and Boards of Officers), 2 October 2006.
- g. AR 190-14 (Carrying of Firearms and Use of Force for Law Enforcement and Security Duties), 12 March 1993.
- h. AR 190-47 (The Army Corrections System), 15 June 2006.
- i. Special Text 19-LESM (Law Enforcement and Security Management Field Training Manual), 1 June 2015.
- j. STP-19-31E1-SM (Soldier's Manual for MOS 31E, Corrections and Detention Specialist Skill Level 1), 15 July 2014.