

MINNEAPOLIS POLICE DEPARTMENT

SPECIAL ORDER



BY ORDER OF THE CHIEF OF POLICE

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TO: Distribution "A"			RETENTION DATE: Until Rescinded
SUBJECT: <u>Manual Revision – 5-315 Force Option – High-Pressure Air (HPA) Projectiles and Launchers (Pepper Balls)</u>			APPROVED BY:

MP-8806

Introduction:

Effective with the issuance of this Special Order, Section 5-315 of the MPD Policy and Procedure Manual shall be amended as follows:

5-315 Force Option- High-Pressure Air (HPA) Projectiles and Launchers (Pepper Balls)

(xx/xx/xx)

I. Purpose

The purpose of this policy is to ensure that members who carry and use high-pressure air projectiles and launchers (HPA projectiles and HPA launchers) adhere to the force guiding principles described in P&P 5-301. The force guiding principles include, but are not limited to, the Sanctity of Life (as incorporated below), the Duty to De-escalate, and Objectively Reasonable, Necessary, and Proportional Force.

Minneapolis Police Department (MPD) and its members shall uphold the sanctity of life (P&P 0-102 and P&P 5-301) by striving to protect and preserve human life in all situations and keep the community and MPD members safe from harm.

This policy addresses HPA projectile and launcher use. Impact projectile launchers and other impact projectiles are covered by P&P 5-307. Chemical munitions are covered by P&P 5-313.

HPA projectiles are intended to provide a force option that maximizes time and distance, minimizes direct confrontations, and helps maintain control of a situation without resorting to higher degrees of force with a greater risk of injury.

II. Policy

A. HPA Projectile as an Intermediate Weapon

HPA projectiles, also sometimes called “pepper balls,” are intended to cause temporary discomfort and are generally considered an intermediate weapon when delivered to areas of the person’s body that are considered unlikely to cause death or serious physical injury. Depending on how members use the projectiles, including factors such as distance from the person, vulnerability of the person, and the area of impact on the person’s body, HPA projectiles could result in injury, including substantial bodily harm or greater.

B. Civil Disturbances and Assemblies

All use of HPA projectiles and launchers shall comply with this policy. Use of these weapons for crowd control purposes or during civil disturbances and assemblies shall also comply with P&P 7-805.

C. Pointing an HPA Projectile Launcher

1. Members shall only point an HPA projectile launcher at a person when there is an objectively reasonable belief that the use of HPA projectiles may be necessary in the situation, as outlined in [II-D] and [II-E] below. Pointing an HPA Projectile Launcher at a person will be considered a level 1 use of force and require a force review.
2. Unnecessarily pointing an HPA projectile launcher may limit a member’s alternatives in controlling a situation and may inhibit or limit communication between the member and the person.

D. Indirect Impact by an HPA Projectile Conditions

HPA projectiles may only be used on a surface in accordance with the factors and requirements described below. In addition to the conditions in this policy, the use of HPA projectiles must be objectively reasonable, necessary, and proportional, and members are reminded that they shall use the lowest degree of force necessary (P&P 5-301). When using HPA projectiles, members must apply the Critical Decision-Making Model (CDM) (P&P 7-801) to continually assess the situation and modulate their use accordingly as the person's behavior changes.

1. Indirect target areas

Indirect impact by an HPA projectile shall only be used when the projectile is discharged at a surface as a method for delivery, examples include, but are not limited to, wall, tree, window, or stationary vehicle, for area denial, area saturation, or control of a person, in one of the following situations:

- a. To gain control of a person who is actively resisting or presents an objectively imminent physical harm.
- b. For life-saving purposes.

- c. To introduce the chemical HPA projectile agent into a room from a distance to motivate the person who is hiding to exit the room and comply. The operator must have a good line of sight of the impact area and verify it is clear before introducing the chemical HPA projectile agent.
- d. Near a person committing damage to property.
- e. When an occupant of a vehicle or room who is reasonably believed to be armed with a weapon refuses to exit the vehicle or room following a lawful command to do so and is allowed a reasonable time to comply, as long as the time delay does not put the person, members, or others in harm's way.
- f. When approved by the Chief or the Chief's designee at the rank of Deputy Chief or higher.

2. Consider risks

Prior to using HPA projectiles on a surface, members need to consider the risks to any person who may be struck by the projectile or by debris caused by the projectile's impact on the surface, the risks to any person who may be inside a structure or vehicle, and the risks to any person outside who might also be exposed.

E. Direct Impact by an HPA projectile Conditions

HPA projectiles may only be used directly on a person in accordance with the factors and requirements described below. In addition to the conditions in this policy, the use of HPA projectiles must be objectively reasonable, necessary, and proportional, and members shall use the lowest degree of force necessary (P&P 5-301). When using HPA projectiles, members must apply the critical decision-making model (CDM) (P&P 7-801) to continually assess the situation and modulate their use accordingly as the person's behavior changes. Direct or Indirect Impact by an HPA projectile is considered a level 2 use of force and requires a level 2 force review.

1. Criteria for direct impact

Members shall only discharge HPA projectiles to directly impact a person when:

- a. Such force is necessary to protect the member, the person, or another party from objectively imminent physical harm.

or

- b. Both of the following apply:

- i. The member has reasonable articulable suspicion (RAS) to believe the person has committed one of the following offenses:

- Any assault (including domestic assault).
- The attempt or act of murder.
- Violent sex crimes.

- Robbery.
- Arson.
- Kidnapping.
- Carjacking.
- Felony firearm discharges.
- Firearm pointing in violation of MN Statute section 609.66 Dangerous Weapons.
- Auto theft (not including theft from a motor vehicle).
- Burglary.

and

ii. Such force is necessary to place the person into custody or take control of the situation. Force may only be considered necessary when no reasonably effective alternative exists, meaning lower degrees of force or alternatives to force did not work, would not work, were not feasible, or were too unsafe to attempt (P&P 5-301).

or

iii. A SWAT supervisor approves use by a member working in a SWAT capacity to provide a tactical advantage, to place the person into custody, or take control of the situation, and no reasonably effective alternative exists, meaning lower degrees of force or alternatives to force did not work, would not work, were not feasible, or were too unsafe to attempt. This does not apply to the use of HPA projectiles for crowd control purposes or during civil disturbances and assemblies (which shall only occur in accordance with P&P 7-805).

2. Consider vulnerable people

Members must consider the heightened risk of injury and potential adverse community impact when deploying HPA projectiles against people who may be particularly vulnerable, including but not limited to people who are:

- Pregnant.
- Elderly.
- Minors of small stature.

3. Target areas

- a. Members are encouraged, when feasible, to deploy HPA projectiles indirectly onto a surface near the person prior to using direct impact (see Conditions for Hard Surface).
- b. Members shall be aware that the delivery of HPA projectiles to certain parts of the human body can cause substantial injury that can lead to permanent physical injury.
- c. Members shall target the abdominal area or below when deploying HPA projectiles and should attempt to avoid the groin area.

d. Not intentionally discharge HPA projectiles at a person's head, neck, throat, face, or spine unless deadly force would be authorized.

4. Compliant and passively resisting people

a. Members shall not discharge HPA projectiles at people who are complying with orders or are passively resisting as defined by policy.

b. Members are prohibited from using HPA projectiles on anyone who is handcuffed.

5. Consider risks and other means of control

Prior to discharging HPA projectiles at a person, members shall consider:

a. Any risks to the community or to the members.

b. Whether the person could be controlled by any other reasonable means without unnecessary risk to the person, members, or the community.

6. Separate uses of force

Each volley of HPA projectiles – whether directly discharged at a person or used for area denial or area saturation – constitutes a separate use of force that members must independently justify as objectively reasonable, necessary, and proportional.

Members will document in a Police Report how many volleys were discharged.

F. Announcements

It is important that whenever possible, all members involved, and possible responding members, know that an HPA projectile is being discharged so they do not mistake the sight and noise from the HPA projectile discharge as a live ammunition discharge. In addition to the requirements in “Identify Self and Warn of Intent” in P&P 5-301:

1. Members, when feasible, shall announce over the radio that an HPA projectile will be discharged when time and tactics permit.

2. Members shall, when feasible, yell, “pepper ball” prior to the deployment of the HPA launcher.

3. HPA projectile launchers will have yellow markings indicating they are intermediate weapons (see the specifications in section [II-L]).

G. Carrying, Storage, and Tracking of HPA Projectile Launchers

1. HPA projectile launchers shall be assigned to each precinct, City Hall, and specialty units as needed. Only certified operators are authorized to carry HPA projectile launchers.

2. Each HPA projectile launcher shall be kept in its own case and in a secured gun locker when not in use.

3. All HPA projectile launchers stored at the precincts shall be checked out by a supervisor, except in exigent circumstances. A log will be kept at the precinct for HPA projectile launcher check-outs.
4. Patrol supervisors shall assign at least one HPA projectile launcher to a certified operator at the start of the shift (if the shift has an operator who is current with their certification).
5. MPD-trained operators shall have the HPA projectile launchers available during their assigned shift, when possible.

H. Collecting Spent Projectiles

Operators will collect and dispose of any unbroken HPA projectiles that were launched and did not break open, when feasible.

I. Maintenance of HPA Projectile Launchers

Only MPD-certified Range personnel and trained SWAT personnel shall perform maintenance and repairs to the HPA projectile launchers.

J. Treatment and Medical Aid

1. In addition to standard medical treatment after uses of force (in accordance with P&P 5-301 and P&P 7-350), post-exposure treatment for a person who has been exposed to the chemical HPA projectile agent shall include the following, as feasible:
 - Removing the affected person from the area of exposure.
 - Exposing the affected person to fresh air.
 - Rinsing the eyes and skin of the affected person with cool water.
 - Placing the person in an upright seated position, or if that is not feasible, in the side recovery position.
2. A person who has been exposed to a chemical HPA projectile agent shall not be left lying on their stomach once handcuffed or restrained.
3. Members shall keep a person exposed to a chemical HPA projectile agent under close observation until they are released to medical or other law enforcement personnel and shall watch for symptoms of a significant adverse reaction, which could include, but are not limited to blistering, burns, difficulty breathing, excessive pain, visual disturbance, or an altered mental state.
 - a. If the person exhibits such symptoms after having flushed the affected areas, or the person indicates that they have a pre-existing condition (such as asthma, emphysema, bronchitis, or a heart ailment) that may be aggravated by the chemical HPA projectile agent, members shall arrange for immediate transportation to a hospital for medical treatment.
 - b. A member transferring custody of a person exposed shall inform the entity accepting custody that the person was exposed to a chemical HPA projectile agent.

K. Training Required

Only members who have completed the required training and are currently certified in the use of an HPA projectile launcher are authorized to carry and use them.

L. Specifications for HPA Projectile Launchers and HPA Projectiles

1. Members are only authorized to carry MPD-approved HPA projectile launchers that are issued by the Department. Personally owned HPA projectile launchers, or those issued by another agency, are not authorized to be carried or utilized while an MPD member is acting in their official MPD capacity.
2. Department-approved HPA launchers include:
 - Hopper-fed HPA launchers.
 - Magazine-fed HPA launchers.
3. Approved HPA projectile launchers shall be authorized as follows:
 - a. The approved HPA projectile launchers for the HPA Projectile Operator Program (patrol) will be authorized by MPD Range.
 - b. The approved HPA projectile launchers for SWAT will be authorized and approved by the SWAT training coordinator.
 - c. HPA projectile launchers shall be clearly marked with yellow on the barrel, indicating that they are an intermediate weapon.
4. The Department-approved rounds for HPA launchers include:
 - a. Inert projectiles:
 - Ball.
 - Shaped.
 - b. Live agent projectiles:
 - Ball.
 - Shaped.
5. The MPD Range shall issue projectiles with each launcher, depending on the needs of the HPA Projectile Operator Program.
6. The Range Master may authorize additional projectiles of a similar type based on supply issues or interruptions.

III. Definitions

Area Denial: Preventing people from entering an area or motivating them to leave an area using chemical agents, such as those in a chemical munition or a high-pressure air projectile. This may include HPA projectiles launched to impact surrounding objects like walls, ground, automobiles, and trees, and not directly hitting the person.

Carry Weapons and Force Devices: Having a weapon or force device on one's person. This includes having it in a pocket, holster, or backpack, or similar container, as well as having it slung or having it in hand.

Discharge HPA Projectiles: Ejecting an HPA projectile out of the end or nozzle of the weapon.

Direct Impact by an HPA Projectile: When an HPA projectile makes contact with a person.

Indirect Impact by an HPA Projectile: HPA impacts a surface near a person.

High-Pressure Air Projectile: A frangible plastic projectile designed to burst upon impact and release a chemical agent such as (OC) powder, discharged from a high-pressure air (HPA) projectile launcher. (P&P 5-315)

Imminent Threat: A threat is imminent when all of the following apply:

- It can be articulated with specificity.
- It is reasonably likely to occur absent action by the law enforcement member.
- It must be addressed through the use of objectively reasonable, necessary, and proportional force without unreasonable delay.

A fear of future harm is only an imminent threat if it must be addressed without unreasonable delay, no matter how great the fear or likelihood of harm.

HPA Projectile Launcher: The authorized tool designed to use carbon dioxide (CO₂), nitrogen, or compressed air to launch high-pressure air (HPA) projectiles from a distance. (P&P 5-315).

Objectively Imminent Physical Harm:

Aggressively Resisting or Assaultive: The person displays the intent to imminently harm the member, themselves or another person. Examples include:

- Taking a fighting stance (such as clenching and raising fists into a boxer pose or a substantially similar action).
- Punching, kicking, or otherwise striking.

Aggravated Aggressive Resistance or Aggravated Assault: The person displays the intent to imminently harm the member, themselves or another person, and the person's actions are likely to result in great bodily harm or death. Examples include:

- Use of a firearm.

- Use of a blunt or bladed weapon.

- Extreme physical force.

Pointing an HPA Projectile Launcher: Placing a person in the line of fire of an HPA projectile launcher with the intent to use or imply the use of the weapon. This does not include pointing at the ground or having a launcher in one's hands pointed at the ground.

Volley: Deploying three to five HPA projectiles at a person or near a person.

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