

Less Lethal Firearms

40 mm



Definition – Less Lethal Munitions

- ◇ Extended range kinetic energy impact munitions.
 - ◇ Capable of creating blunt trauma
 - ◇ Used from a distance
 - ◇ To compel a subject to cease actions when officers reasonably believe they are a viable option for resolving the situation at hand



Less Lethal Launching System

- ◆ 40mm less lethal:
 - ◆ Rifle barreled
 - ◆ **Single shot & Multi-launcher systems**



DefTech 40mm

- ◇ Less Lethal Firearm
- ◇ Sponge round
- ◇ 40mm charge
- ◇ A form of impact weapon



FCPD Use of Force Policy

LEXIPOL POLICY #300

- ◇ Refer / Review December 2019 Lexipol Use of Force Policy
- ◇ Penal Code 835A
- ◇ Reasonableness
- ◇ Deadly Force



FCPD USE OF FORCE POLICY

USE of Force REPORTING

Use of Force Reporting Considerations:

- Reports to be completed as soon as possible
- Photographs of officers and subjects
- Document factors perceived before, during, and after force application (pre-assaultive behaviors)
- Document why you felt the force was *reasonable* at the time
- Threats of physical violence made by suspect
- Exigent need to apprehend
- Public caretaking



FCPD USE OF FORCE POLICY

Officer's Responsibilities

- Duty to Intercede: An officer observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstance SHALL intercede
- Notify supervisor as soon as feasible
- Provide medical attention as soon as feasible



Demeanor towards Officers

- ◇ Compliant
 - ◇ Going along with the program
- ◇ Passive Resistant
 - ◇ Not complying with your orders
- ◇ Active Resistant
 - ◇ Pulling away
- ◇ Threatening (Assault)
 - ◇ Fighting stance, fists, swinging at you, etc.
- ◇ Assault
 - ◇ Actively fighting



Graham v. Connor

- ◇ Graham v. Connor, 490 U.S. 386 (1989) was a case decided by the United States Supreme Court, in which the Court determined that an objective reasonableness standard should apply to a free citizen's claim that law enforcement officials used excessive force in the course of making an arrest, investigatory stop, or other "seizure" of his person.
- ◇ This case also established the doctrine that the judiciary may not use the Due Process Clause instead of an applicable specific constitutional provision:
- ◇ "Because the Amendment provides an explicit textual source of constitutional protection against this sort of physically intrusive governmental conduct, that Amendment, not the more generalized notion of 'substantive due process,' must be the guide for analyzing these claims."



Notification to Supervisors

- ◇ The application caused a visible injury.
- ◇ The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.
- ◇ The individual subjected to the force complained of injury or continuing pain.
- ◇ The individual indicates intent to pursue litigation.
- ◇ Any application of a restraint device other than handcuffs, shackles or belly chains.
- ◇ The individual subjected to the force was rendered unconscious.
- ◇ An individual was struck or kicked.
- ◇ An individual alleges any of the above has occurred.



Medical Considerations

- ❖ Prior to booking or release, medical assistance shall be obtained for any person who exhibit signs of physical distress, who has sustained visible injury, expresses a complaint of injury or continuing pain, or who was rendered unconscious.



Medical Considerations Continued

- ◇ Any individual exhibiting signs of physical distress after an encounter should be continuously monitored until he/she can be medically assessed. Based upon the officer's initial assessment of the nature and extent of the subject's injuries, medical assistance may consist of examination by fire personnel, paramedics, hospital staff or medical staff at the jail. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practicable, should be witnessed by another officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.
- ◇ The on-scene supervisor, or if not available, the primary handling officer shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration). (FCPD Policy 300)



Likely Suspects/Subjects

- ◇ Suicidal
- ◇ Mentally ill* (Refer to use of force policy)
- ◇ Under the influence
- ◇ Emotionally upset
- ◇ Uncooperative

◇ Hostile/violent



Potential Injuries Due to Blunt Trauma

- ◇ Chest & Spine
 - ◇ Fracture of Ribs and/or penetration between them
- ◇ Damage To:
 - ◇ Major Blood Vessels & Thoracic Cavity
 - ◇ Heart and/or Lungs
 - ◇ Spinal Column



Prime Target Areas

◇ Front of the Body:

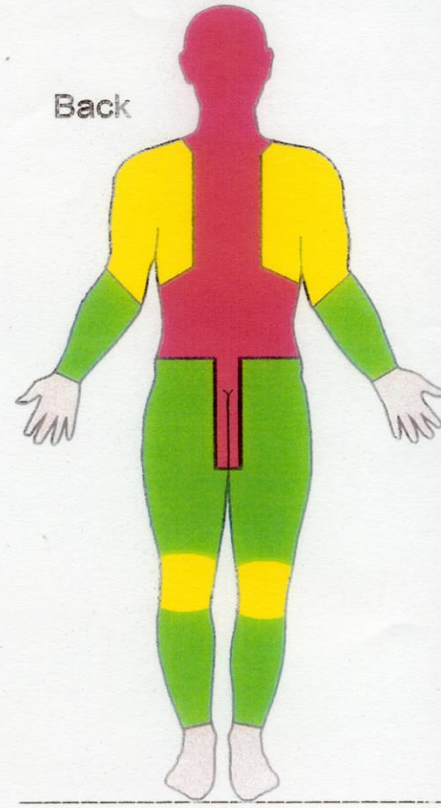
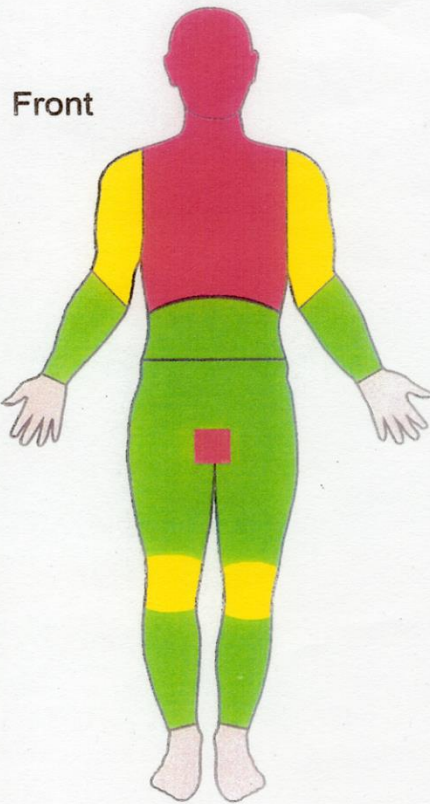
- ◇ Arm below the elbow
- ◇ Lower abdomen
- ◇ Thigh
- ◇ Leg below the knee
 - ◇ Major muscle groups

◇ Rear of the Body:

- ◇ Buttocks
- ◇ Arm below the elbow
- ◇ Thigh
- ◇ Leg below the knee
 - ◇ Major muscle groups



Prime Target Areas



Primary

Secondary

Lethal Force



Secondary Target Areas

◇ Front of the Body:

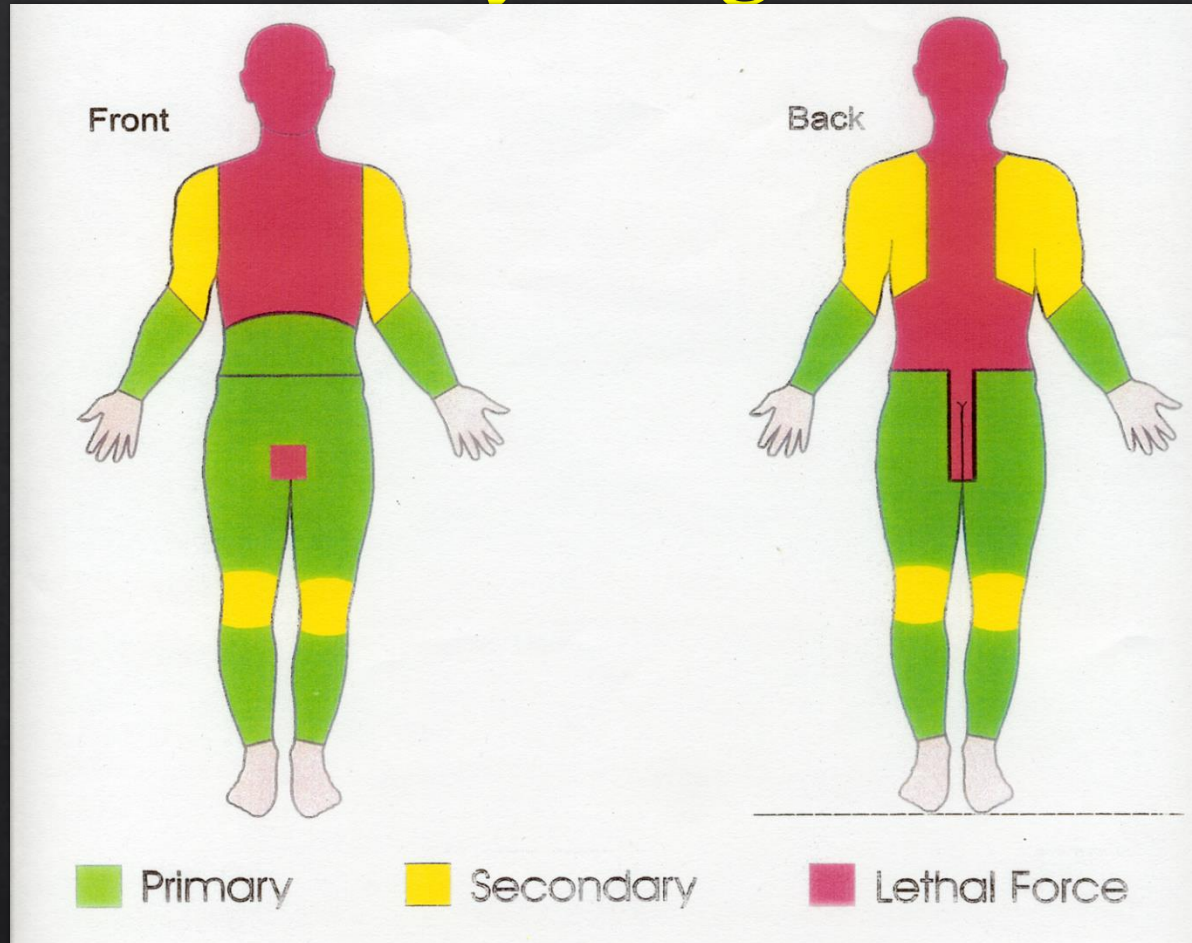
- ◇ Arms elbow to shoulder
- ◇ Knees

◇ Rear of the Body:

- ◇ Arms elbow to shoulder including shoulder blades
- ◇ Knees



Secondary Target Areas



Compliance

- ◇ Gained through two effects:
 - ◇ Physiological
 - ◇ Pain compliance
 - ◇ Trauma to targeted body area (large muscle group) will (hopefully) incapacitate that area
 - ◇ Psychological
 - ◇ Intimidation (large weapon)
 - ◇ Shock of the impact – demoralization



Non-Target Areas

◇ Front of Body:

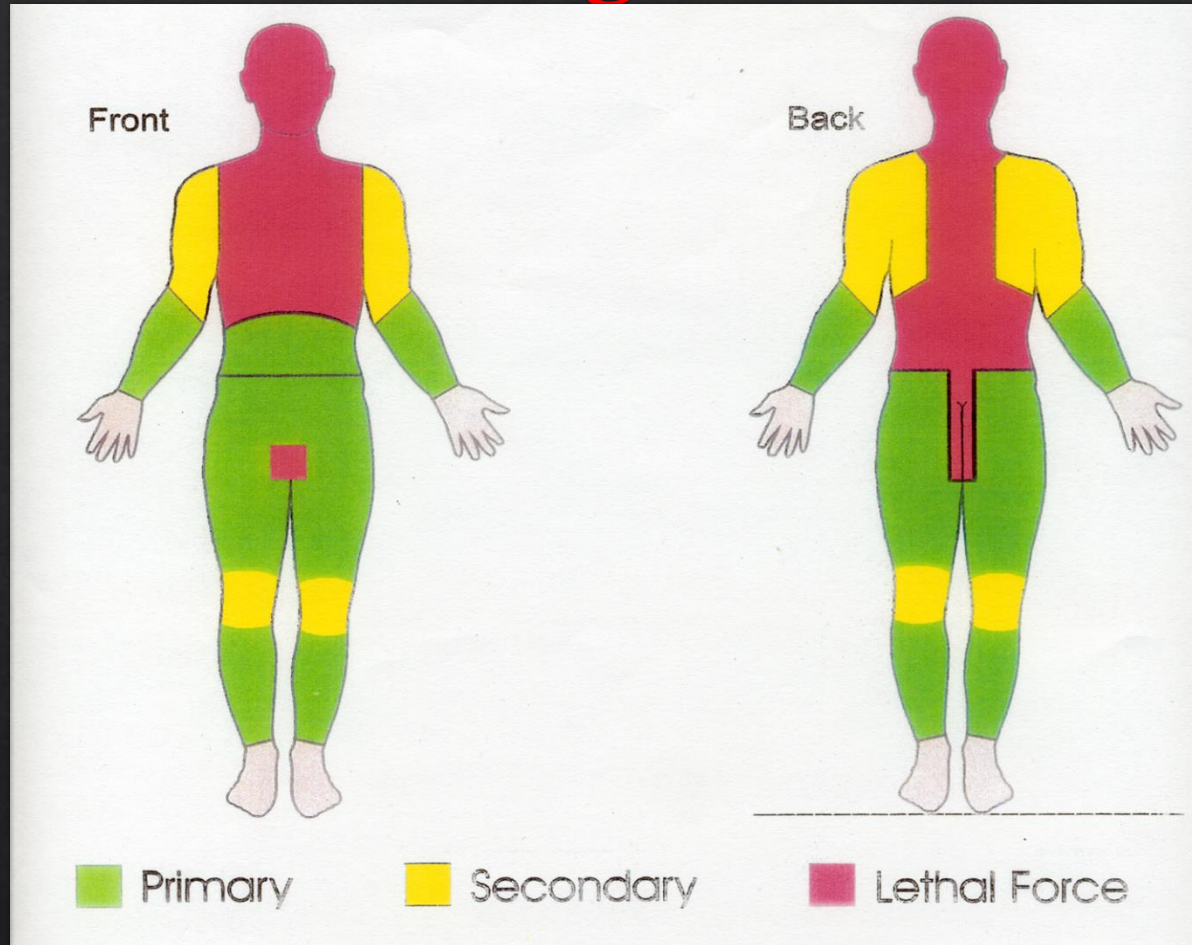
- ◇ Head
- ◇ Neck
- ◇ Throat
- ◇ Spine
- ◇ Chest
- ◇ Groin

◇ Rear of Body:

- ◇ Head
- ◇ Neck
- ◇ Spine



Non-Target Areas



Less Lethal Firearm Case Law

- ◇ Deorle vs. Rutherford
 - ◇ Officers have a duty to warn, if possible, before using any force option, including any less lethal munitions.
 - ◇ Case out of Butte County SO
 - ◇ Deputy Rutherford shot Deorle with a beanbag in the eye; destroying the eye.
 - ◇ Armed prior to the shot (hatchet, crossbow) & w/lighter fluid at time
 - ◇ Rutherford was aiming for the ribs



Procedural Precautions

- ◇ Ensure launcher is empty (chamber & tube)
- ◇ Have no other type of less lethal rounds on person (black tip duty round)
- ◇ Have another officer double check rounds while loading (if feasible)
- ◇ Make a note of suspect(s) struck as soon as possible



Less Lethal Deployment

- ◇ Defensive Technologies 40mm eXact iMpacT Sponge Round (XM1006):
 - ◇ Muzzle Velocity: 325fps (99mph)
 - ◇ Cartridge is Plastic/Fiber Composite. Projectile is plastic rotating band and foam rubber.
 - ◇ Appropriate target distance: 5-75 feet.
 - ◇ Maximum range: 120 feet.
 - ◇ Munitions should be directed to large muscle groups. **AVOID NON-TARGET AREAS**



Tactical Considerations

- ◇ Lethal cover officer (firearm)
- ◇ Cover and Concealment
- ◇ Distance from suspect
- ◇ Weather
- ◇ Communication among officers
- ◇ Target area selected
- ◇ Back up plan
- ◇ Suspect factors
 - ◇ Actions and demeanor
 - ◇ Weapons
 - ◇ Clothing
 - ◇ Surroundings
 - ◇ Bystanders



Suggested Ideal Response

- ◇ Multiple officers, team effort

 - ◇ Officer w/less lethal projectile (grenadier)

 - ◇ Supervisor

 - ◇ Cover officer (lethal force)

 - ◇ Alternative less lethal option (Taser, OC, baton, etc.)

 - ◇ Arrest team

 - ◇ XXXXXXXXXXXXX



Proper Documentation

- ◆ Take photos of injuries, alleged injuries & scene if possible
- ◆ Witness statements
- ◆ Description of suspect's actions
- ◆ Book photos
- ◆ Retrieve casing(s) & projectile(s) – when feasible- and book into evidence
- ◆ Be able to clearly articulate & justify each round delivered



Other Types of Less Lethal/ Diversionary Devices

- ◇ OC/CN/CS and marking 40mm round
- ◇ 37mm
- ◇ Stinger ball round
- ◇ Shotgun beanbag round
- ◇ Flash bang
- ◇ Stinger grenade

