

## TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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### ASSEMBLY BILL 48 - LAW ENFORCEMENT: USE OF FORCE

#### **I. PURPOSE**

The purpose of this bulletin is to provide information and direction related to Assembly Bill 48, which further restricts the use of kinetic energy projectiles and chemical agents by law enforcement.

#### **II. SCOPE**

This Training Bulletin applies to sworn personnel.

#### **III. BACKGROUND**

Supporters of AB 48 believe it will enhance the safety of persons exercising their right to assemble and protest by providing clear expectations of law enforcement regarding their use of kinetic energy projectiles and chemical agents during an assembly, protest, or demonstration.

This legislation adds section 13652 to the Penal Code. This new Penal Code section prohibits the use of kinetic energy projectiles or chemical agents by any law enforcement agency to **disperse** any assembly, protest, or demonstration, except in compliance with specified standards set by AB 48, and prohibits their use solely due to a violation of an imposed curfew, verbal threat, or noncompliance with a law enforcement directive.

AB 48 requires that kinetic energy projectiles and chemical agents shall only be used to disperse an assembly, protest, or demonstration by a properly trained officer when objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including a peace officer, or to bring an objectively dangerous and unlawful situation safely and effectively under control.

**AB 48 does not prohibit an officer's ability to use appropriate force options to defend themselves or others as defined in Department Procedure 1.04.**

**IV. DEFINITIONS**

For the purposes of this Training Bulletin, “kinetic energy projectiles” and “chemical agents” mean the following:

- (1) “Kinetic energy projectiles” means any type of device designed as less lethal, to be launched from any device as a projectile that may cause bodily injury through the transfer of kinetic energy and blunt force trauma. For purposes of this section, the term includes, but is not limited to, items commonly referred to as rubber bullets, plastic bullets, beanbag rounds, and foam tipped plastic rounds.

**Note: SDPD currently refers to kinetic energy weapons as “Extended Range Impact Weapons (ERIW)”. SDPD Policies and Procedures that reference ERIW will be updated to replace the term with “kinetic energy weapons”, as to align with state law.**

- (2) “Chemical agents” means any chemical that can rapidly produce sensory irritation or disabling physical effects in humans, which disappear within a short time following termination of exposure.

The term includes, but is not limited to, chloroacetophenone tear gas, commonly known as CN tear gas; 2-chlorobenzalmalononitrile gas, commonly known as CS gas; and items commonly referred to as pepper balls, pepper spray, or oleoresin capsicum.

**V. PROCEDURES**

**A. Penal Code Section 13652 reads in relevant part as follows:**

- (a) Except as otherwise provided in subdivision (b), kinetic energy projectiles and chemical agents shall not be used by any law enforcement agency to **disperse** any assembly, protest, or demonstration.
- (b) Kinetic energy projectiles and chemical agents shall only be deployed by a peace officer that has received training on their proper use by the Commission on Peace Officer Standards and Training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including any peace officer, or to bring an objectively

dangerous and unlawful situation safely and effectively under control, and only in accordance with all of the following requirements:

- (1) De-escalation techniques or other alternatives to force have been attempted, when objectively reasonable, and have failed.
- (2) Repeated, audible announcements are made announcing the intent to use kinetic energy projectiles and chemical agents and the type to be used, when objectively reasonable to do so. The announcements shall be made from various locations, if necessary, and delivered in multiple languages, if appropriate.
- (3) Persons are given an objectively reasonable opportunity to disperse and leave the scene.
- (4) An objectively reasonable effort has been made to identify persons engaged in violent acts and those who are not, and kinetic energy projectiles or chemical agents are targeted toward those individuals engaged in violent acts. Projectiles shall not be aimed indiscriminately into a crowd or group of persons.
- (5) Kinetic energy projectiles and chemical agents are used only with the frequency, intensity, and in a manner that is proportional to the threat and objectively reasonable.
- (6) Officers shall minimize the possible incidental impact of their use of kinetic energy projectiles and chemical agents on bystanders, medical personnel, journalists, or other unintended targets.
- (7) An objectively reasonable effort has been made to extract individuals in distress.
- (8) Medical assistance is promptly provided, if properly trained personnel are present, or procured, for injured persons, when it is reasonable and safe to do so.
- (9) **Kinetic energy projectiles shall not be aimed at the head, neck, or any other vital organs.**

- (10) **Kinetic energy projectiles or chemical agents shall not be used by any law enforcement agency solely due to any of the following:**
  - (A) **A violation of an imposed curfew.**
  - (B) **A verbal threat.**
  - (C) **Noncompliance with a law enforcement directive.**
- (11) If the chemical agent to be deployed is tear gas, only a commanding officer at the scene of the assembly, protest, or demonstration may authorize the use of tear gas.
- (c) This section does not prevent a law enforcement agency from adopting more stringent policies.

Department Procedures 1.06, 1.36, 1.38, and 4.17 will be updated to reflect these changes. Department Procedures 1.04, 1.06, 1.36, 1.38, 1.43, 1.49, 4.17, and the Department Inspection Manual will be updated to reflect the changes in nomenclature.