



<b>ELECTRONIC CONTROL DEVICES</b>	Related Policies: Use of Force/Response to Resistance
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only for the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable State Statutes:	
CALEA Standard: <b>1.3.1, 1.3.2, 1.3.5, 1.3.6., 1.3.7, 1.3.10, 26.1.1</b>	

- I. **Purpose:** The purpose of this policy is to direct officers in the appropriate use of force with respect to the deployment of electronic control devices.
- II. **Policy:** The policy of this agency is to protect and serve all citizens while at the same time respecting the rights of suspects and balancing the need for officer safety in use of force events. It is the policy of this agency that officers will use only reasonable force to bring an incident or event under control. Reasonable force is only that force which is necessary to accomplish lawful objectives. All uses of force must be objectively reasonable.
- III. **Definitions:**
  - A. **Deadly Force:** Force which creates a substantial likelihood of death or serious bodily harm.
  - B. **Non-Deadly Force:** All uses of force other than those that create a substantially likelihood of serious bodily harm or death.
  - C. **Imminent:** Impending or about to occur.
  - D. **Objectively Reasonable:** The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances that the officer using the force is presented with.
  - E. **Reasonable Belief:** Reasonable belief means that the person concerned, acting as a reasonable person believes that the prescribed facts exist.
  - F. **Electronic Control Device:** Electronic Control Devices, TASER,<sup>TM</sup> or stun-guns (electronic control weapons) that disrupt the central nervous system of the body.

- G. Active resistance:** a subject actively resists when they take affirmative action to defeat an officer's ability to take them into custody.

#### **IV. Procedure:**

- A.** In addition to compliance with this agency's use of force (response to resistance) policy, all deployments of an electronic control device as a response to resistance must comply with the provisions of this electronic control device policy.
- B.** An electronic control device as a force option is the same level of force as chemical spray.
- C.** Electronic Control Device must be worn on the weak-side in either a weak-hand draw or cross-draw position.
- D.** Electronic Control Device deployment shall not be considered for the passively resistant subject. Active resistance or active aggression shall be required.
- a.** Flight from an officer, standing alone, is not a justification for the use of an electronic control device. Officers should consider the nature of the offense suspected the level of suspicion with respect to the person fleeing, and the risk of danger to others if the person is not apprehended immediately. Additionally, officers should consider the type of area, i.e. asphalt, railroad tracks, grass etc.
- b.** Officers must be trained concerning ability of electrical charge to act as an ignition for combustible materials. (Note: Officers have been seriously injured and or killed after deploying a Electronic Control Device in the presence of open natural gas during suicidal person call)
- c.** Multiple Electronic Control Device deployments against an individual may increase the likelihood of serious injury where the individual is suffering from other symptoms such as cocaine intoxication. Policy and training should encourage officers to minimize the successive number of discharges against an individual where possible.
- d.** The agency recognizes however, particularly where back-up officers are unavailable, that multiple applications may be necessary to gain or maintain control of a combative individual.
- e.** No more than one officer should deploy an electronic control device against a single individual at the same time.
- f.** A contributing factor to serious injury or death is the level of a subject's exhaustion. Studies recommend that when an officer believes that control of a subject will be necessary and met with resistance, deployment of the Electronic Control Device should be considered early on in the event so that the person has not reached a level of exhaustion prior to the Electronic Control Device's use.
- g.** In cases where subject is actively resisting an officer's attempt to take them into custody but not threatening the officer with an assault-it is recommended that the Electronic Control Device be used in the "push [drive] stun mode."
- h.** The preferred targeting is the center mass of the subject's back, however it is recognized that it is not always possible to get behind the subject.
- i.** Where back-targeting is not possible, frontal targeting should be lower center mass, intentional deployments to the chest shall be avoided where possible.

- j.** Officers who are aware that a female subject is pregnant shall not use the Electronic Control Device unless deadly force would be justified due to the danger created by the secondary impact or the possibility of muscle contractions leading to premature birth.
- k.** Officers shall make all reasonable efforts to avoid striking persons in the head, neck, eyes or genitals.
- l.** Officers are prohibited from using the device as punitive measure.
- m.** Electronic Control Devices shall not be used against person who is in physical control of a vehicle in motion unless deadly force would be justified based on an existing imminent threat.
- n.** A warning prior to discharge is preferred but not always necessary for this type of force to be considered reasonable, model policies as well as courts have noted that giving a subject, who is assaultive toward the officer, a warning may enhance the danger to the officer and the subject by giving the subject time to avoid the deployment. See: *Draper v. Reynolds*, 369 F.3d 1270 (11th Cir. 2004).
- o.** Officers shall make all efforts to warn other officers that a deployment is about to occur.
- p.** The device shall never be used on a handcuffed person to force compliance unless the subject is actively resistant and control cannot be otherwise accomplished.
- q.** Officers should consider the location and environment of the subject. i.e. Is the subject at the top of a stairwell such that when incapacitated by the Electronic Control Device-they fall down the stairs causing a collateral injury. Officers shall avoid using Electronic Control Device in cases where the subject is elevated i.e. roof, fire escape, tree, bridge, stairwell, etc. etc. such that the secondary impact may cause serious injury.
- r.** Officers should be aware that a subject's heavy clothing may impact the effectiveness of the electronic control device.
- s.** Officers should consider whether the subject has been exposed to combustible elements that may be on their person such as gasoline. The use of an Electronic Control Device on such persons may cause an ignition and fire.
- t.** Officers should consider the particular subject and any vulnerabilities they may have such as: a person who is small in stature or very frail will be more dramatically impacted; some agencies have been criticized as well as sued for use on pregnant women, the very young and the elderly.
- u.** Alternative tactics shall be utilized where the officer has prior information that the subject suffers from a disability which would increase the danger to that person by using the Electronic Restraint Device. i.e. A person at the scene tells an officer that the subject has a heart condition.
- v.** Deployed probes that have been removed from a suspect should be treated as a bio-hazard.
- w.** Where EMS is available, their services may be utilized for the removal of darts that have penetrated the skin as long as such removal can be accomplished without causing further injury or pain to the subject.

- x.** All persons who have been the subject of a Electronic Control Device deployment shall be monitored for a period of time with a focus on symptoms of physical distress. Any person who appears to be having any form of physical distress following the deployment of an ECD, shall be transported to a medical facility for a medical examination. It should be noted that studies indicate that persons who suffer from excited delirium may not be immediately impacted and the onset of difficulty may occur a period of time after the police control event.
- y.** Mandatory Medical Clearance at Hospital:
  - i.** Persons struck in a sensitive area-eyes, head, genitals, female breasts.
  - ii.** Where the probes have penetrated the skin and Officers/EMS cannot safely remove darts in accord with this policy.
  - iii.** Persons who do not appear to have fully recovered after a short period of time (Model Policies use a ten-minute time limit however officers who observe unusual physical distress should immediately call for medical assistance and should not wait the ten-minute recovery period recommended by some of the model policies)
  - iv.** Persons who fall into one of the vulnerable classes such as juveniles, pregnant women, persons who are small in stature, persons who officers become aware have a pre-existing medical condition that increases danger and the elderly.
  - v.** Subject who request medical assistance.
- z.** Documentation:
  - i.** All deployments of an Electronic Control Device shall be documented including those cases where a subject complies once threatened with such a device. By documenting the non-discharge uses, an agency establishes officer judgment and control as well as the deterrent effect of this tool.
  - ii.** Photographs of the affected area, shall taken following the removal of darts from the subject to document any injury. Where the push-stun method has been used, photographs are extremely important due to the increased potential for this method to cause scarring.
  - iii.** Supervisory personnel shall be notified and review all Electronic Control Device deployment for consistency with policy and training.
  - iv.** Darts/Cartridges shall be properly stored and maintained as evidence following a discharge.
  - v.** Officers are required to complete a “use of force/response to active resistance form” which shall be reviewed by a supervisor following the ECD use.
  - vi.** All deployments shall be reviewed by the agency as well as training personnel.
  - vii.** Where there is any indication of lasting injury, claim or complaint internal data from device shall maintained.
  - viii.** All ECD units will be audited monthly to ensure that all deployment/activations have been reported as required.

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