

# Conducted Energy Device

## 303.1 PURPOSE AND SCOPE

Best Practice MODIFIED

This policy provides guidelines for the issuance and use of CEDs.

## 303.2 POLICY

Best Practice MODIFIED

The Conducted Energy Device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to officers and suspects.

## 303.3 ISSUANCE AND CARRYING OF CONDUCTED ENERGY DEVICES

Best Practice MODIFIED

Only members who have successfully completed department-approved training may be issued and carry the CED.

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Officers shall only use the CED and cartridges that have been issued by the Department. Uniformed officers who have been issued the CED shall wear the CED device in an approved holster on their person. Non-uniformed officers may secure the CED in the driver's compartment of their vehicle.

Members carrying the CED should perform a spark test on the unit prior to every shift.

When carried while in uniform officers shall carry the CED in a weak-side holster on the side opposite the duty weapon.

- (a) All CEDs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry two or more cartridges on their person when carrying the CED.
- (c) Officers shall be responsible for ensuring that their issued CED is properly maintained and in good working order.
- (d) Officers should not hold both a firearm and the CED at the same time.

## 303.4 VERBAL AND VISUAL WARNINGS

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A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

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- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the CED may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the CED. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CED in the related report.

### **303.5 USE OF THE CONDUCTED ENERGY DEVICE**

**Best Practice** **MODIFIED**

The CED has limitations and restrictions requiring consideration before its use. The CED should only be used when its operator can safely approach the subject within the operational range of the device. Although the CED is generally effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

#### **303.5.1 APPLICATION OF THE CONDUCTED ENERGY DEVICE**

**Best Practice** **MODIFIED**

The CED may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CED to apprehend an individual.

#### **303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

**Best Practice** **MODIFIED**

The use of the CED on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- (a) Individuals who are known to be pregnant.

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- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the CED in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

The CED shall not be used to psychologically torment, elicit statements or to punish any individual.

#### 303.5.3 TARGETING CONSIDERATIONS

**Best Practice** **MODIFIED**

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the CED probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

#### 303.5.4 MULTIPLE APPLICATIONS OF THE CONDUCTED ENERGY DEVICE

**Best Practice** **MODIFIED**

Officers should apply the CED for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the CED against a single individual are generally not recommended and should be avoided unless the officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the CED appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CED , including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

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Officers should generally not intentionally apply more than one CED at a time against a single subject.

#### 303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

**Best Practice** **MODIFIED**

Officers shall notify a supervisor of all CED discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

#### 303.5.6 DANGEROUS ANIMALS

**Best Practice** **MODIFIED**

The CED may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

#### 303.5.7 OFF-DUTY CONSIDERATIONS

**Best Practice** **MODIFIED**

Officers are not authorized to carry department CEDs while off-duty.

Officers shall ensure that CEDs are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

### 303.6 RESPONSIBILITIES

**Agency Content**

#### 303.6.1 WATCH COMMANDER'S RESPONSIBILITIES

**Agency Content**

The on-duty Watch Commander shall monitor the use of control devices in the same manner as all other use of force incidents.

- (a) The Watch Commander, when possible, should respond to calls when they reasonably believe there is a likelihood the CED may be used. A supervisor shall respond to all incidents where the CED was activated.
- (b) The on-duty Watch Commander shall review each use of control devices by any personnel within his or her command. The device's onboard memory should be downloaded through the data port by a supervisor or CED Instructor and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.
- (c) The on-duty Watch Commander shall ensure line-up training on the use of control devices is provided as needed.
  1. The Watch Commander shall document the incident on the Department Response to Resistance and Aggression (Form TF-5)

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#### 303.6.2 MAINTENANCE RESPONSIBILITY

##### Agency Content

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices.

#### 303.7 MEDICAL TREATMENT

##### Best Practice MODIFIED

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove CED probes from a person's body. Used probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CED probes or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel when:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CED probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED.

#### 303.8 REPORTING USE OF THE CONDUCTED ENERGY DEVICE

##### Agency Content

Any application of a Conducted Energy Device shall be documented pursuant to Policy Manual § 300.5.

#### 303.9 CONDUCTED ENERGY DEVICE TRAINING

##### Best Practice MODIFIED

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Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial department-approved training.

Proficiency training for personnel who have been issued CEDs should occur every year. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Professional Services Officer. All training and proficiency for CEDs will be documented in the officer's training file.

Command staff, supervisors and investigators should receive CED training as appropriate for the investigations they conduct and review.

Officers who do not carry CEDs should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Professional Services Officer is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEDs during training could result in injury to personnel and should not be mandatory for certification.

The CED Instructor should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the CED.

### **303.10 DOCUMENTATION**

**Best Practice** **MODIFIED**

Officers shall document all CED discharges in the related arrest/crime report and the Response to Resistance and Aggression report form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the EPD administrative deployment report form (DRF-1).

#### **303.10.1 CONDUCTED ENERGY DEVICE FORM**

**Best Practice** **MODIFIED**

Items that shall be included in the CED report form (the Response to Resistance and Aggression form) are:

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- (a) The type and brand of CED and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the device was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Administrative Services Captain should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Administrative Services Captain should also conduct audits of data downloads and reconcile Response to Resistance and Aggression report forms with recorded activations.

#### 303.10.2 REPORTS

**Best Practice** **MODIFIED**

The officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing CEDs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication or other medical problems