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Date: March 9, 2018

To: The San Francisco Police Commission
Chief William Scott, San Francisco Police Department

From: David W. Rizk, The BASF's Criminal Justice Reform Task Force
Representative to ECW Stakeholder Working Group

Re: Proposed DGO 5.02 on the use of Tasers/Electronic Control Weapons
("ECWs")

Dear Commissioners:

Thank you for instituting a collaborative process, consistent with the recommendations of the U.S. Department of Justice Community Oriented Policing Services (COPS) and the reform process to which we are all committed. This process will result in a superior ECW¹ policy that is national model, once some final important revisions are made.

The revisions detailed below are necessary to protect the safety of the public and our officers. The research undertaken by The Bar Association of San Francisco (BASF) over the last two years demonstrates at least three significant dangers associated with ECW weapons: (1) a host of safety risks, including death; (2) the manufacturer's recent issuance of 22 warnings which shift civil liability to the cities and local agencies that use the weapon; and (3) a reported lack of reliability of the weapon—particularly associated with the X2 and/or X26P, the only models available for purchase—which too often results in an escalation of force and/or increased risk to the officer. With these known problems in mind, the BASF brought its research to the table as SFPD and the Working Group Stakeholders worked collaboratively to draft a ECW policy. The Working Group focused its efforts on developing a policy that minimizes the risk of injury and/or death to the individuals likely to be subjected to the weapons and the officers using them, protects the SFPD and the City from liability, and assures the greatest efficacy of use.

Our proposed revisions are also consistent with, and necessary to safeguard, the reforms made to Department General Order (DGO) 5.01, and pursuant to the U.S. Department of Justice Community Oriented Policing Services (COPS) recommendations. The Commission was right to recognize that, in implementing ECWs, it must adopt a policy that promotes de-escalation, proportionality, Crisis Intervention Training (CIT) principles, and transparency, and that does not undermine all of the successes of the last several years.

¹ The BASF urges the Commission to recognize that these are weapons not "devices."



SFPD, following months of the Working Group's collaborative drafting process, has now submitted a draft policy (Proposed DGO 5.02) that needs a handful of very important revisions in order to minimize three significant dangers set forth above. This memorandum addresses each of the proposed changes and provides the reasons, anchored in sound research, in support of each recommended revision.

Executive Summary of Recommended Revisions

The BASF joins in the recommendations reflected in the Department of Police Accountability's (DPA) submissions concerning (see DPA's attached Exhibits A-C) and those additionally set forth below:

- To protect public and officer safety, authorize ECW use only where an individual poses an immediate threat of serious physical injury, reject the ambiguous "assaultive" standard, and prohibit ECW use where a deadly threat exists.
- Require officers to complete SFPD's full 40-hour CIT training as a prerequisite to being armed with ECWs.
- Restore SFPD's previously-agreed limitation that ECWs may only be used against certain high-risk and vulnerable populations when deadly force would be permitted; and prohibit ECW use against young people (under 18) and/or on school campuses.
- Prohibit the use of "stun gun" mode as a pain compliance technique, as it is inconsistent with 21st Century Policing principles, DGO 5.01, and jeopardizes public and officer safety.
- Require officers, where feasible, to request staging of Automatic External Defibrillator (AED) and medical support *before* ECW deployment in order to save lives when seconds count.
- To ensure accountability and success, appoint an ECW coordinator to oversee the ECW program and specify the coordinator's responsibilities in Proposed DGO 5.02.
- Require the ECW Review Board to provide detailed reporting to the Commission and the public to ensure accountability and regular evaluation of the efficacy and safety of ECWs on a forward-looking basis.

Additional Analysis of Proposed Recommended Revisions

Complete Crisis Intervention Training (Section I-B). Former SFPD Chief Greg Suhr proposed to require that, prior to being equipped with ECWs, officers should complete SFPD's full 40-hour CIT training program (see attached Exhibit D). SFPD has already committed to completing full CIT training for all officers and approximately 800 officers have already been trained. Full CIT training is particularly important for officers armed with ECW because this weapon will be deployed against individuals in crisis who are suffering from serious medical issues such as mental health crises, and/or are under the influence of substances. Those individuals indisputably face a greater risk of serious injury and/or death from ECWs.

Define Authorized Use (Section III-H). To protect the public and our SFPD officers, the BASF urges the Commission in the strongest possible terms to revise the fundamental standard, and permit use of ECWs only where an individual poses an immediate threat of serious physical injury to the officer or another. The BASF also strongly urges the Commission to prohibit ECW use against deadly threats, except in exigent/exceptional circumstances. These proposed changes are consistent with guiding legal precedents, DGO 5.01, 21st Century Policing principles, and the manufacturers' twenty-two product liability warnings.² As the ACLU and other Stakeholders have explained in their submissions, the legal

² SFPD has argued that DGO 5.01 implements an "assaultive" standard for intermediate-level impact weapons (batons, bean bag rifles, etc.), and that officers would be "confused" by a separate standard for ECW use. Concern about potential "confusion" is properly addressed by training, and cannot justify adopting a more permissive standard that is appropriate for weapons that, unlike ECWs, do not pose a risk of death. In proposing the "assaultive" standard, SFPD fundamentally overlooks the high level of force, and attendant risks, associated with ECWs.



term-of-art “assaultive” legally means nothing more than a “threat or unwanted touching.” We do not believe that judicial authorities or the court of public opinion will tolerate ECW use—a potentially lethal application of force—against an individual who has merely verbally threatens or physically contacts an officer or another person, where there is otherwise no immediate threat of serious physical injury to anyone. The Proposed DGO 5.02, as drafted, therefore exposes SFPD and the City to legal liability and promises to seriously undermine public trust, potentially undoing the progress of the past several years. The “assaultive” standard, and the proposed authorization of ECW use in the face of a deadly threat, also runs contrary to the twenty-two warnings issued by the manufacturer, which are designed to shift liability to SFPD and the City. Except in exigent circumstances, using an ECW to counter a deadly threat places the officer and the public’s safety at risk in view of the simple fact that an ECW is inadequate to neutralize a deadly threat, and given the weapon’s reported failure rate of 50% (see The BASF Sept. 18, 2017 Memorandum, at 13).

Protect High Risk Populations and Minors (Section III-I). Proposed DGO 5.02 currently advises that officers should be “aware of the possible heightened risk of an adverse reaction from ECD use on certain subjects.” That language minimizes known dangers, and invites unnecessary injuries and death. SFPD’s August 25, 2017 version of Proposed DGO 5.02 prohibited the use of ECW use on vulnerable populations—such as women who are obviously pregnant, children, elderly, and those who officers know are suffering from serious medical or psychiatric conditions—unless deadly force would otherwise be authorized. Unlike the advisory language in the current Proposed DGO 5.02, SFPD’s August 25, 2017 proposal provides meaningful protection for these particularly vulnerable populations. The proposed use of ECWs on pregnant women, the elderly, children, and those who are ill, gravely threatens community trust and threatens to undermine the COPS recommendations and SFPD’s own restorative progress over the last several years. The BASF joins the S.F. Human Rights Commission and other Stakeholders in strongly urging the Commission to prohibit the use of ECWs against all minors (e.g., under 18, not just “children”) and to ban ECWs from school campuses.

Prohibit “Drive Stun” Mode (Section III-F). Proposed DGO 5.02 permits the use of “drive stun” mode effectively as a pain-compliance tool. To this day, SFPD commanders have been unable to offer any coherent explanation for why “stun gun” mode should be permitted in any circumstance that does not, in effect, constitute pain compliance. Proposed DGO 5.02 Section III-F-2, as it is currently drafted, is open-ended and contains no meaningful restrictions on the use of this inhumane mode. Pain compliance techniques are prohibited by DGO 5.01, inconsistent with 21st Century Policy principles, disapproved by the Police Executive Research Forum, and widely recognized to increase safety risks to officers and the public, particularly when used against individuals under the influence of substances.

Require Advance AED Staging Where Feasible (Section III-M). Because Proposed DGO 5.02 does not require that every officer equipped with a ECW also have immediate access to life-saving AEDs, the BASF and UCSF electrocardiologist and researcher Dr. Zian Tseng strongly recommend that officers be required, when feasible, to request that AEDs be staged when the officer reasonably believes or expects that AED deployment is possible in a given situation *prior to deployment* (see attached Exhibit E). There is no doubt that that hundreds to thousands of people in the United States have died or suffered serious and irreparable injuries, including brain injuries, following cardiac arrest and capture after an ECW was used on them. Seconds count when an individual has suffered a cardiac arrest and capture, e.g., heart failure. ECWs will often be deployed in dynamic circumstances where advanced staging is not possible, but given the new regime of de-escalation tactics, time and distance, and CIT methods, scenarios will arise where an officer can—and should call for AEDs—prior to deployment. This policy will save lives and help prevent serious injuries.

ECW Coordinator, Review Board and Public Reporting (Section III-P). Chief Scott has emphasized the importance of implementing an ECW program safely, with appropriate oversight, and periodic assessments to gauge whether the weapon is being used, and performing, safely and effectively. The experience of other departments (such as Oakland Police Department), and SFPD’s own experience



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implementing its model CIT program, demonstrates that the ECW program at SFPD is most likely to succeed if it is supported and overseen by a designated supervisor who is held accountable for results. ECWs are complex weapons that require testing and maintenance, specialized training for officers, and careful supervision and oversight to ensure that they do not lead to increased use-of-force incidents. The BASF urges the Commission in the strongest possible terms to appoint an ECW coordinator to oversee the program (see attached Exhibit C). Relatedly, the BASF joins DPA and other Stakeholders in urging the Commission to require the proposed ECW Review Board to regularly report detailed information concerning ECWs to the Commission in order to ensure transparency around the impact of these weapons, and to enable evaluation of the efficacy, safety, and performance of the weapon, as well as the relevant training that is provided to officers. These measures are essential to safeguarding public trust in SFPD, given the controversial nature of this weapon and the timing of its implementation.

Thank you very much for your careful consideration of the BASF's recommended revisions.

Signed,

David W. Rizk
Member, Criminal Justice Reform Task Force
The Bar Association of San Francisco

Enc: Exhibit A – DPA Suggested Revisions in Green to DGO 5.02
Exhibit B – DPA Annotated Version of DGO 5.02 Appendix A
Exhibit C – Ex. C to March 9, 2018 DPA Letter to Commission (ECW Coordinator Provisions)
Exhibit D – Feb. 10, 2016 Bureau Order on Draft Conducted Energy Devices
Exhibit E – March 9, 2018 Presentation of UCSF Dr. Zian Tseng

EXHIBIT A

USE OF **ELECTRONIC CONTROL DEVICES WEAPON**

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The San Francisco Police Department's highest priority is safeguarding the life, dignity and liberty of all persons. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to protect and serve. The Department is committed to accomplishing this mission with respect and minimal reliance on the use of force by using rapport-building communication, crisis intervention, and de-escalation tactics before resorting to force, whenever feasible. This Department General Order builds upon the Supreme Court's broad principles in *Graham v. Connor* (1989) 490 U.S. 386 and is more restrictive than the constitutional standard and state law. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

No policy can anticipate every conceivable situation or exceptional circumstance which officers may face. In all circumstances, officers are expected to exercise sound judgment and critical decision making when using force options.

For purposes of this order, the term "officer" means all ranks of sworn personnel.

I. POLICY

The purpose of this policy is to establish guidelines for proper deployment and activation of Electronic Control Devices (ECD) and the supervisory response which shall be taken thereafter.

- A. **LESS-LETHAL ALTERNATIVES.** It is the policy of the San Francisco Police Department (SFPD) to equip officers with less-lethal alternatives, such as an ECD, to resolve encounters with subjects who are violently resisting, **posing an immediate threat of physical harm to an officer or another assaultive**, or exhibiting any action that may result in serious bodily injury or death of another person, themselves or the member.
- B. **TRAINING.** Only officers who have successfully **completed the 40 hours of Crisis Intervention Team training** and Department's **20-hour** Use of Force policy update and the Crisis Intervention Team (CIT) Field Tactics training and all other required Department-approved ECD training are authorized to carry ECDs.
- C. **REPORTING AND REVIEW.** The SFPD will thoroughly investigate and document all facts and information when a member of the SFPD activates an ECD, intentionally or unintentionally. (See DGO 5.01, *Use of Force*)
- D. **USE OF FORCE POLICY.** The activation of an ECD by a member in the performance of his/her duties is considered a use of force, and shall be consistent with the policies and training adopted by the SFPD. (See DGO 5.01, *Use of Force*).

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E. DE-ESCALATION. The use of an ECD is not intended to replace tactics or training that can be utilized to calm or control a person, or to de-escalate a situation and avoid the use of force. (See DGO 5.01, *Use of Force*)

F. RE-EVALUATION. When activating the ECD, the member shall use it for one standard five-second cycle, and re-evaluate the effectiveness to determine whether the subject can be restrained without additional ECD activations. Each subsequent five-second cycle requires a separate, articulable justification.

II. DEFINITIONS

A. ACTIVATION. Depressing the trigger of the ECD causing the firing of probes or placing the ECD on a subject in the drive stun mode. An effective activation occurs when the subject is exposed to both ECD probes resulting in Neuromuscular Incapacitation (NMI) or when the fixed electrodes in drive stun mode are in direct contact with the subject's skin or clothing.

~~B. ASSAULTIVE. Aggressive or combative; assaulting or battering the officer or another person, verbally or physically displays an intention to assault the officer or another person.~~

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C. COMPLIANT. Subject offers no resistance.

D. CONFETTI TAGS. Minute coded tags specific to the activated ECD cartridge.

E. DEPLOYMENT. Removal of the ECD from the holster and pointing it at a subject, displaying the arc, or displaying the laser sight.

F. DISPLAYING THE ARC. A compliance function of the ECD. Displaying the electrical current to a subject without making contact.

G. DRIVE STUN. Activating the ECD by placing the electrodes upon the skin/clothing of the subject.

H. ELECTRONIC CONTROL DEVICE (ECD). A weapon designed primarily to discharge electrical impulses into a subject that will cause NMI and override the subject's voluntary motor responses.

I. LIFE THREATENING. Any action likely to result in serious bodily injury or death to the officer or another person.

J. MEDICAL ASSESSMENT. Examination of a subject by emergency medical personnel.

K. MEDICAL EVALUATION. Examination of a subject by a physician at a medical facility.

L. PASSIVE NON-COMPLIANCE. Does not respond to verbal commands but also offer no physical form of resistance (e.g., failing to respond to an officer's commands and remaining fixed or stationary when an officer attempts to physically control the subject's movement).

M. SPARK TEST. This test assists an officer in determining the functionality and the battery life of the ECD.

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III. PROCEDURES

A. ISSUANCE AND CARRYING ECDS.

1. Officers shall only use Department-issued ECDS and cartridges.
2. Officers who have been issued the ECD shall wear the device in a Department-approved holster and carry the ECD in a weak-side holster on the side opposite their duty weapon.
3. An Officer shall not hold a firearm and an ECD at the same time.
4. When multiple officers are present and an ECD will be used, only one officer shall activate the device on a subject. If the ECD malfunctions or if both probes do not make contact with the subject, an additional officer may activate an ECD if compliance from the subject has not been achieved. Officers shall coordinate which officer will activate the ECD and which officer(s) will act as the coverofficer(s).
5. The Department will ensure that Automated External Defibrillators (AED) are readily available in Department police vehicles in all police districts. Upon ECD activation, officers without access to an AED shall contact the Department of Emergency Management (DEM) and request a unit equipped with an AED respond to the scene. An officer who does not have access to an AED and reasonably believes he or she is likely to use a taser, shall, when feasible, request a unit equipped with an AED respond to the scene.
6. Officers equipped with an ECD shall wear their Department-issued body worn cameras (BWC) and activate the BWC consistent with Department General Order 10.11, Body Worn Cameras.

B. INSPECTION. Officers carrying the ECD shall perform an inspection of the ECD at the beginning of every shift and:

1. Perform a daily spark test on the ECD at the officer's station or unit before leaving the facility;
2. Ensure the ECD is clearly and distinctly marked to differentiate it from the duty weapon and any other device;
3. Whenever practical, officers should carry two or more cartridges on their person when carrying the ECD;
4. Officers shall be responsible for ensuring that their issued ECD is properly maintained and in good working order. If an officer discovers that the ECD is damaged or inoperable, the officer shall cease its use and promptly notify his/her supervisor and document the specific damage or inoperability issue in a memorandum. The supervisor shall facilitate a replacement ECD as soon as practical;

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5. Officers shall not alter the ECD from the original factory specifications and markings; and
 6. Due to the flammable contents in some chemical agent containers, officers shall only carry Department-issued Oleoresin Capsicum (OC) which is non-flammable (water based and will not ignite).
- C. **WARNINGS**
1. When reasonable, unless it would otherwise endanger the safety of the officer or others, prior to each activation of the ECD, the officer shall loudly announce that the ECD is going to be activated.
 2. The purpose of the warning is to:
 - a. Provide the individual with a reasonable opportunity to voluntarily comply, and
 - b. Provide other officers and other bystanders with a warning that the ECD may be activated.
- D. **STANDARD CYCLE AND ASSESSMENT.** The initial use of the ECD is a standard five-second cycle, after which the officer shall evaluate the need to apply a subsequent five-second cycle while offering the subject a reasonable opportunity to comply. Exposure to multiple cycles of the ECD for longer than a total of 15 seconds (3 five-second cycles) may increase the risk of serious bodily injury or death. Unless exigent circumstances apply, officers shall use another force option or tactics once the subject has been exposed to three standard cycles. Officers must be able to articulate in the incident report the facts and circumstances that justified each cycle of the ECD.
- In an attempt to minimize the number of ECD activations needed for a person's compliance, officers shall, when feasible, verbally direct the subject to comply with the officer's commands. Such verbal commands may include, "drop the weapon," "put your hands behind your back," etc. Multiple applications of the ECD cannot be justified solely on the grounds that a person failed to comply with a command, absent the circumstances listed in Section III. H. 1 - 4.
- E. **CONSIDERATIONS FOR RE-EVALUATION.** If an ECD appears to be ineffective in gaining control of a subject, the officer shall evaluate the situation and consider certain factors before additional applications of the ECD:
1. Whether the probes are making proper contact;
 2. Whether the individual has the ability and has been given a reasonable opportunity to comply;
 3. Whether verbal commands, other options or tactics may be more effective; or
 4. Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- F. **ECD MODES.** The following are the three operational modes of the ECD:
1. **Probe Mode.** Probe mode occurs when the ECD is activated and both probes are expelled from the cartridge and penetrate the skin/clothing of the subject.

2. **Drive Stun Mode.** Drive Stun mode alone is not designed to cause incapacitation. Drive stun mode is intended to supplement the probe mode in order to complete the incapacitation circuit. Officers can also use drive stun mode on a subject described in Section III. H. 1 — 4, below. Officers shall not use drive stun mode as a pain compliance technique.

3. **Deployment Mode.** Achieved either by pointing an ECD, employing the arc display, or pointing the laser at the subject. Deploying the ECD may be all that is necessary to de-escalate a volatile situation. A subject may become compliant once faced with the realization that an ECD may be used on him or her. However, officers shall not deploy the ECD in circumstances where activation would not be justified (e.g., where the subject is exhibiting compliance or passive non-compliance.)

G. **TARGET AREAS.** Officers shall, when feasible, make reasonable efforts to target lower center mass or if available, the back, which is the preferred target area. Officers shall not intentionally target sensitive areas, including the head, face, neck, chest or groin. The use of an ECD to these areas has a likelihood of causing serious bodily injury or death, and the intentional use of an ECD to these areas shall only be used in exigent circumstances.

It is recognized that the dynamics of each situation and officer safety may not permit the officer to limit the application of the ECD probes to a precise target area. As in all cases of ECD exposure, officers shall monitor the condition of the subject if one or more probes strikes the head, face, neck, chest or groin until the subject is examined by emergency medical personnel.

H. **AUTHORIZED USE OF THE ECD.** Officers shall determine the reasonableness of ECD use based upon the totality of the circumstances, including but not limited to, the severity of the crime at issue, the subject's level of resistance; the subject's apparent age and size; and the feasibility of lesser force options. Officers shall use the minimum ECD cycles necessary to accomplish a lawful objective. When feasible, officers shall use de-escalation, crisis intervention techniques, or lesser force options before using a taser.

An officer may activate the ECD when a subject is:

1. Armed with a weapon other than a firearm, such as an edged weapon or blunt object, and the subject poses an immediate threat to the safety of the public, him/herself or officers; or

2. Assaulting or battering the officer or another person, or verbally or physically displaying an intention to assault the officer or another person; or posing an immediate threat of physical harm to the officer or another; or

3. Violently resisting an officer's attempt to lawfully detain or arrest a subject; or

4. Exhibiting actions likely to result in serious bodily injury or death to the public, him/herself or the officer.

In rare circumstances, officers may decide to activate an ECD on a subject armed with a firearm. Officers should consider cover, concealment, terrain, lethal cover, and tactical positioning when determining whether to activate the ECD in these circumstances.

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- I. **SPECIAL CONSIDERATIONS.** Officers shall be aware of the possible heightened risk of an adverse reaction from ECD use on certain subjects. ~~Officers are not prohibited from using an ECD on these subjects, but use is limited to those exceptional circumstances where the potential benefit of using the device reasonably outweighs the risks and concerns.~~
- ~~1. Except where deadly force would be permitted, an officer shall not use a CED;~~
 - ~~2. Special considerations shall be made when using an ECD on the following subjects:~~
 - a. if the subject is obviously pregnant;
 - b. if the subject appears elderly;
 - c. if the subject is visibly frail;
 - d. if the subject appears to be a child **under the age of 18**;
 - e. if the subject is in physical control of a vehicle in motion, including but not limited to motorcycles, bicycles, scooters and skateboards;
 - f. if the subject is in danger of falling from an elevated height;
 - g. when the officer has credible information that the subject suffers from a serious medical or psychiatric condition (e.g., heart condition, Alzheimer's disease, **schizophrenia**);
 - h. if the subject has recently been exposed to a flammable chemical agent or is otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based OC spray. Department-issued OC spray is not flammable.
 3. Officers shall not use ECDs on handcuffed or restrained persons unless the subject's behavior causes immediate risk to the officers and lesser means have been tried and failed or would be ineffective.
- J. **PROHIBITED USE.** Officers are prohibited from using the ECD:
1. to prevent a subject from destroying evidence, such as placing evidence in his/her mouth;
 2. to intimidate by reckless display;
 3. if the suspect is fleeing and does not pose an immediate threat of physical harm to the public or officers. Flight will never be the sole reason for applying an ECD on a subject;
 4. on a subject who is compliant or who displays only passive non-compliance;
 5. as a prod or escort device;
 6. solely as a pain compliance technique;
 7. to rouse unconscious, impaired or intoxicated subjects; or
 8. if the ECD is or has been submerged in water or other liquid
- K. **OFFICER REQUIREMENTS AFTER ACTIVATIONS.** As soon as feasible following an ECD activation, officers shall:
1. contact DEM and request emergency medical personnel respond to the scene of the ECD activation;
 2. contact DEM and request a unit equipped with an AED respond to the scene if one is not present.
 3. place the subject in a face up (supine) or seated position to assist breathing and avoid placing the subject in a face down position for extended periods of time;
 4. notify a supervisor of all ECD activations, including all unintentional activations;

5. collect confetti tags and book into evidence; and
6. collect expended cartridge(s), probes, and wires, and book into an evidence envelope, using a sharps container for the probes. The cartridge serial number shall be listed on the evidence envelope. Officers shall mark the evidence envelope "Biohazard" if the probes penetrated the subject's skin.

Officers shall document the reasons for any deviation from this evidence collection protocol in the incident report.

- L. **DUTY TO RENDER FIRST AID.** Officers shall render first aid when a subject is injured or claims to be injured by an officer's use of force unless first aid is declined, the scene is unsafe, or emergency medical personnel are available to render first aid. Officers shall continue to render first aid and monitor the subject until relieved by emergency medical personnel.

Absent exigent circumstances, only emergency medical personnel should remove ECD probes from a person's body. If exigent circumstances require an officer to remove the ECD probes, removal shall be done consistent with Department training. Officers shall treat used ECD probes as biohazard sharp objects, such as a used hypodermic needle, and shall use universal precautions when handling used ECD probes.

- M. **DUTY TO PROVIDE MEDICAL ASSESSMENT.**

1. Officers shall request emergency medical personnel respond to the scene for a medical assessment and removal of ECD probes from a person's body.
2. At least one officer shall be assigned to continually monitor the subject's physical condition until emergency medical personnel arrive.
3. Officers shall immediately notify DEM of any observed breathing difficulties or any other physical or mental state changes.
4. Officers shall advise emergency medical personnel that an ECD was used on the subject and advise emergency medical personnel if the subject loses consciousness, appears to exhibit signs of a serious medical condition, sustains a secondary injury (e.g., as the result of a fall), and/or is shocked in sensitive areas (e.g., head, face, neck, chest, and groin).
5. Officers shall, when feasible, give the approximate time of the ECD activation, the total number of ECD activations, and the approximate combined duration of time the ECD was activated on the subject to emergency medical personnel.

If a subject refuses medical assessment, the refusal shall be directed to the on-scene emergency medical personnel and not to the officer. Officers shall document a subject's refusal in the incident report by listing the name and identification number of the emergency medical personnel who obtained the refusal from the subject.

- N. **DUTY TO PROVIDE MEDICAL EVALUATION.** All subjects who have been struck by ECD probes or who have been subjected to the electric discharge of the device shall be transported by

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emergency medical personnel for evaluation at a local medical facility as soon as practical and prior to any additional law enforcement actions being taken with the subject. If emergency medical personnel do not transport the subject or if the subject refuses medical assessment, officers shall transport the subject to a local medical facility.

If a subject refuses medical evaluation, the refusal shall be directed to the medical facility staff and not to the officer. Officers shall document a subject's refusal in the incident report by listing the name and identification number of the medical facility staff who obtained the refusal from the subject. The officer shall inform any person providing medical care and the personnel receiving custody of the subject that he or she has been subjected to the ECD.

O. **BOOKING OF SUSPECT.** When a subject has been exposed to ECD probes or has been subjected to the electric discharge of the device, officers shall:

1. Ensure the subject is medically evaluated prior to booking him or her into the county jail. Subjects shall not be booked at a district station, and
2. Note the use of the ECD on the field arrest card.

Nothing in this section prohibits an officer from taking a subject who has been exposed to ECD probes or has been subjected to the electric discharge of the device to a police facility for investigatory purposes. However, the subject shall be medically evaluated prior to bringing him or her to the police facility.

P. **DOCUMENTATION REQUIREMENTS.** Officers shall document all ECD deployments and activations, including all unintentional activations, in an incident report, supplemental incident report or a written statement. Officers shall include the following information in the incident report or written statement:

1. Date, time and location of the incident;
2. The subject's actions necessitating each use of the ECD, including any weapon displayed by the subject;
3. Subject's known or suspected drug use, intoxication, other medical problems or behavioral crisis at the time of deployment or activation;
4. De-escalation techniques used by the officer(s);
5. Whether a verbal or other warning was given or the reason it was not given;
6. Whether the officer used other force options;
7. The type and brand of ECD and cartridge serial number;
8. Whether any deployment deterred a subject and gained compliance;
9. The number of ECD activations;
10. The approximate distance at which the ECD was used;
11. Location of any probe impact;
12. Whether there was a clothing disconnect;
13. Description of where missed probes went;
14. Whether the subject sustained any injuries

15. Information about the medical care provided to the subject;
16. Whether any officers sustained any injuries;
17. Identification of all officers deploying or activating ECDs;
18. Identification of all witnesses, when feasible; and
19. All supervisory notifications required by DGO 5.01, Use of Force.

Officers assigned to the Police Academy Physical Training and Defensive Tactics staff shall review all incident reports involving ECD use to identify trends, tactics and the need for training updates.

Commented [sfpd6]: Policy item #6

ECW Coordinator's role and responsibilities including 1) ECW training; 2) issuing, monitoring, maintaining and Testing ECW equipment; 3) ECW data collection and analysis; 4) reviewing all ECW deployments; 5) providing subject matter expertise for ECW Review Board

- Q. SUPERVISOR RESPONSIBILITIES. When an ECD has been activated, a supervisor shall follow the protocol outlined in DGO 5.01, Section VII, Section B. 2. In addition, supervisors shall:
1. Confirm that a unit equipped with an AED is on scene or is responding;
 2. Confirm that any probes that have pierced the subject's skin are removed by medical personnel;
 3. Ensure that photographs of probe sites are taken unless the probe sites are on the breast, genitalia, or buttocks;
 4. Ensure that the subject is medically evaluated prior to being booked into any facility;
 5. Ensure that the ECD's memory record has been uploaded; and
 6. Provide replacement ECD cartridges to the officer, as necessary.
- R. SUPERIOR OFFICER'S RESPONSIBILITIES. When a superior officer is notified of an ECD activation that results in serious bodily injury requiring admittance to a medical facility, the supervisor shall notify the Department of Police Accountability (DPA).
- When a superior officer is notified of an in-custody death involving the activation of an ECD, the superior officer shall ensure the Department's Operations Center notifies the DPA.
- S. RISK MANAGEMENT NOTIFICATIONS. The Commanding Officer of the Risk Management Office or designee shall notify the DPA within seven (7) business days of any ECD activation involving the circumstances listed in section III. I. 1. a-h.
- T. OFF-DUTY CONSIDERATIONS. Officers are not authorized to carry or use Department-issued ECDs while off-duty. Officers shall ensure that ECDs are secured in a manner that will keep the device inaccessible to others.
- U. TRAINING. Proficiency training for officers who have been issued ECDs shall occur annually. A reassessment of an officer's knowledge or practical skill may be required at any time if deemed appropriate by the Department-approved ECD instructors. All training and proficiency for ECDs will be documented in the officer's training file.

Commented [sfpd7]: Policy item #7

Any officer who has not carried the ECD as a part of his or her assignment for a period of one year

or more shall be recertified by a Department-approved ECD instructor before carrying or using the device.

DGO 5.02
01/23/18

Commissioned Officers have the option to carry an ECD. Officers who supervise or conduct Use of Force evaluations involving ECDs shall receive the Department-approved ECD training regardless of whether they carry an ECD.

The Commanding Officer of the Training Division is responsible for ensuring that all officers who carry ECDs receive initial and annual proficiency training. ECD activation on an officer during training shall not be mandatory for certification.

The Commanding Officer of the Training Division shall ensure that all training includes:

1. A review of this Department General Order;
2. A review of DGO 5.01, *Use of Force*;
3. A review of DGO 5.21, *Crisis Intervention Team (CIT) Response to Person in Crisis Calls for Service*;
4. Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing, pointing and firing a firearm;
5. Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, face, neck, chest and groin;
6. Handcuffing a subject during the application of the ECD and transitioning to other force options;
7. Scenario-based training;
8. CIT updates;
9. De-escalation techniques; and
10. Restraint techniques that do not impair respiration following the application of the ECD.

References

DGO 5.01, Use of Force
DGO 5.21, Crisis Intervention Team (CIT) Response to Person in Crisis Calls for Service
DGO 10.11, Body Worn Cameras

EXHIBIT B

ELECTRONIC CONTROL DEVICE REVIEW BOARD

This order outlines the functions and responsibilities of the Electronic Control Device (ECD) Review Board and delineates the procedures for reviewing, investigating, and reporting to the Police Commission, cases in which members activate an ECD.

I. POLICY

It is the policy of the San Francisco Police Department to review every instance in which a member's activation of an ECD results in injury other than that caused by routine probe removal or amounting to superficial injuries.¹

Any in-custody death that occurs after a member's effective ECD activation will be reviewed by the ECD Review Board and not be reviewed under DGO 8.12 In-Custody Deaths.

If the effective use of an ECD takes place during an officer involved shooting, the incident will be reviewed pursuant to DGO 8.11, Investigation of Officer Involved Shootings and Discharges and will include an analysis of the taser activation.

The purpose of this review process is to ensure that the department is continually reviewing its training, policy and procedures, and emerging practices in light of circumstances that lead to a member's activation of an ECD consistent with DGO 5.02, Electronic Control Devices.

The San Francisco Police Department recognizes the public's interest in learning about the Department's use of ECDs. It is the policy of the San Francisco Police Department to provide as much information as possible through this public reporting process while complying with applicable local, civil, and criminal laws and preserving the integrity of ongoing investigations.

II. DEFINITIONS

ACTIVATION. Depressing the trigger of the ECD causing the firing of probes or placing the ECD on a subject in the drive stun mode. An effective activation occurs when the subject is exposed to both ECD probes resulting in Neuromuscular Incapacitation (NMI) or

Commented [MS(1): Appendix Item #1
DPA suggests adding "will include an analysis of the taser activation" because DGO 8.11 and DGO 3.10 (Firearm Discharge Review Board) address investigation and review of officer-involved shootings involving firearms and not taser activations. Thus, the suggested language is necessary to ensure that the Firearm Discharge Review Board will analyze and make findings concerning any taser activation that takes place during an officer involved shooting.

¹ Abrasions, hematomas, contusions-examples

when the fixed electrodes in drive stun mode come into direct contact with the subject's skin or clothing.

III. PROCEDURES

A. COMPOSITION OF ECD REVIEW BOARD

1. The ECD Review Board shall be composed of:

- Member of the Police Commission, Advisory
- Deputy Chief of the Administration Bureau (Chair)
- Deputy Chief of the Airport Bureau
- Deputy Chief of the Field Operations Bureau
- Deputy Chief of the Professional Standards and Principled Policing Bureau
- Deputy Chief of the Special Operations Bureau
- Commanding Officer of the Training Division, Advisory
- Commanding Officer of Risk Management, Advisory
- Director of the Department of Police Accountability (DPA), Advisory
- Designated Department ECD subject matter expert, Advisory

Each member can appoint a designee who may participate in the Review Board's proceedings in his or her absence. Voting members shall identify Department subject matter experts, as necessary, to attend and participate in the ECD Review Board's proceedings.

2. The Police Commission President shall appoint the member of the Police Commission who will serve a one-year term.

B. DUTIES OF THE ECD REVIEW BOARD.

1. On a quarterly basis, the ECD Review Board shall meet and review every incident involving an effective ECD activation that results in an injury other than that caused by routine probe removal or superficial injuries. The ECD Review Board will also review ECD data as outlined in DGO 5.02 Section III (P) to identify trends and propose policy and training recommendations.
2. The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than from the perspective of 20/20 hindsight, and without regard to the officer's underlying intent or motivation.
3. The ECD Review Board's written analysis of ECD activations shall include:

Commented [MS(3)]: Appendix item #2.
DPA suggests increasing Police Commission representation to two members to provide more civilian representation during the review of taser incidents.

DPA Suggested Revisions In Green

a. Whether the force used, including the ECD activation, was consistent with SFPD's Use of Force policy (DGO 5.01). DGO 5.01 factors include:

- The severity of the alleged crime at issue;
- Whether the suspect posed an immediate threat to the safety of the officers or others;
- Whether the suspect was actively resisting arrest or attempting to evade arrest by flight;
- Whether the use of force was proportional to the threat;
- The availability of other feasible, less intrusive force options;
- The officer's tactical conduct and decisions preceding the use of force;
- Whether the officer has reason to believe that the subject was mentally ill; had a physical, developmental or cognitive disability; was emotionally disturbed or was under the influence of alcohol or drugs at the time of the incident resulting in the activation of the ECD;
- Whether there was an opportunity to warn about the use of force prior to the activation of the ECD, and if so, was such a warning given;
- Whether the officer made any assessment of the subject's ability to cease resistance and/or comply with the officer's commands;
- Specialized knowledge, skills, or abilities of subjects; The subject's prior contact with law enforcement;
- Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards at the time of the incident; and
- Whether the subject's escape could pose a future safety risk.

Not all of the above factors will necessarily be present or relevant in a particular situation, and there may be additional factors not listed.

b. Evaluation of supervisory response.

c. Evaluation of equipment used during the ECD activation (i.e. review of ECD data uploaded from the actual device—event log, pulse log and engineering log.)

d. Whether the Use of Force investigation was complete.

With the goal of continual improvement, identify and make recommendations concerning the Department's policies, training, equipment, tactics and supervision.

Not all of the above factors will necessarily be present or relevant in a particular situation, and there may be additional factors not listed.

f.

4. ECD activations that are under active criminal, Internal Affairs or DPA investigation(s) will be reviewed after the conclusion of the investigation, including cases under appeal.

Commented [MS(5): DPA suggests that the ECD Board duties, including its role of identifying and making recommendations concerning policies, training, equipment, tactics and supervision be explicitly stated in this section. Thus, DPA suggests the following: "e. With the goal of continual improvement, identify and make recommendations concerning the Department's policies, training, equipment, tactics and supervision." Department of Justice Recommendations 11 found that the current Firearm Discharge Review Board was limited in scope and recommended written evaluation of policy, training and tactical consideration of discharge incidents, specifically identifying whether the incident was influenced by a failure of policy, training, or tactics. Seattle Police Department's Force Review Board conducts an analysis of incidents including 1) whether the investigation is thorough and complete; 2) whether the force was consistent or inconsistent with SPD policy, training, and core principles; 3) whether, with the goal of continual improvement, there are considerations that need to be addressed regarding among other concerns: de-escalation, supervision, equipment, tactics, training, policy, Department best practices; 4) review each use-of-force packet to determine whether the chain of command has appropriately identified and taken actions to correct any deficiencies in the way the incident was handled; 5) confirmation that uniform standards are applied in Use-of-Force practices; 6) identification of instances, trends, or patterns of deficiencies regarding policy, training, equipment, or tactics; and 7) monitoring all aspects of the Department's Use-of-Force practices with the goal of continual improvement. (See Seattle Police Department 8.500-POL-4 Use of Force-FORCE REVIEW BOARD.) Seattle Police Department's Force Review Board uses a template to report its findings concerning the above-mentioned areas of analysis.

5. The ECD Review Board shall also review through a random, blind sampling ten percent of all non-injury ECD effective activation incidents that occurred during the quarter before the ECD Review Board meets.

6. The ECD Review Board shall forward its findings, including ECD summaries, and recommendations quarterly to the Chief of Police for review and concurrence. The Chief of Police can concur, reject or modify the findings and recommendations of the ECD Review Board. Upon review of the Chief of Police, the Department shall provide a copy of the report to the Police Commission and shall post the report on the Department's website.

This report shall be a public record. No report that is made public shall disclose any information that the law makes confidential. The Review Board report will address findings and recommendations concerning tactics and decision making, de-escalation, use of force, supervision, and the investigation, using an agreed upon template.

The Department will prepare a quarterly report containing a comprehensive ECD activations including ECD summaries per SF Administrative Code 96A.

7. Duties of the ECD Review Board Chair include 1) referring policy, training, and equipment issues to the appropriate Department personnel for follow-up; 2) maintaining a record of all recommendations and their status; and 3) monitoring the implementation of accepted recommendations.

IV. TERMINATION OF ECD REVIEW BOARD

The ECD Review Board is an interim measure to ensure that all effective ECD uses that result in an injury as defined by this order receive prompt review. The ECD's Review Board authority and responsibilities shall expire by operation of law upon the Police Commission's adoption of a comprehensive policy establishing a Serious Incident Review Board.

Commented [MS(6): DPA suggests this provision to address the topics of the Review Board's report.

Commented [MS(7): Appendix Item #4 SFPD's previous ECD Review Board drafts addressed two different quarterly reports: 1) San Francisco City Ordinance Chapter 96A Use of Force reports; and 2) ECD Review Board report.

Concerning the Chapter 96A Use of Force reporting, SFPD agreed upon provision, "The Department shall prepare a quarterly report containing comprehensive data on ECD activations including ECD summaries per SF Administrative Code 96A, along with policy and training recommendations." DPA had suggested and SFPD agreed to provide ECD summaries similar to SF Sheriff's 96A summaries.

The Board of Supervisor's amendments to 96A (File No. 180188) does not impact the Use of Force reporting provisions of 96A.

EXHIBIT C

DPA's Suggested Provisions for the Taser (ECW) Coordinator

ECW Coordinator:

1. The Chief shall appoint an ECW Coordinator who is the Department's lead subject matter expert in the use of the ECW and is responsible for managing the Department's ECW Program.

2. Members reporting ECW deployments or activations shall provide a copy of the Use of Force Report to the ECW Coordinator for data collection, analysis and training purposes.

3. The ECW Coordinator's responsibilities include 1) ECW training; 2) issuing, monitoring, maintaining and testing ECW equipment; 3) ECW data collection and analysis; 4) reviewing all ECW deployments; 5) providing subject matter expertise for ECW Review Board.

4. ECW Coordinator's Training Responsibilities: The ECW Coordinator is responsible for:

- a. Developing the Department's ECW Training Program curriculum
- b. Approving certified ECW instructors as Department instructors
- c. Providing training in the use of the ECW and any related Departmental policies to the members of the Department
- d. Facilitating scenario-based training where the use of the ECW is considered
- e. Training specified supervisors on the procedures for downloading information from the ECW
- f. Providing updated training and re-certification on an annual basis
- g. Providing training to outside agencies (e.g. Department of Emergency Management)

5. ECW's Coordinator's Record Keeping Duties: The ECW Coordinator is responsible for data management associated with the ECW program. Data management includes the following duties:

- a. updating and maintaining all training records
- b. recording serial numbers of all issued air cartridges
- c. recording serial numbers of all issued ECWs
- d. recording serial numbers of privately owned ECWs
- e. downloading ECS following an activation when a subject has been struck by a probe or received electrical stimulation
- f. computer data entry for deployments
- g. recording the total number of ECW discharges by each member

6. ECW's Coordinator's Review of ECW Deployments

- a. The ECW Coordinator shall review every ECW activation, including evaluating the reasonableness of the officer's actions, including officer's tactics and decision-making and de-escalation efforts that preceded the use of force, assessing trends within the department, determining whether officers are using ECWs at different rates or in different manners than similarly situated peers, analyzing whether ECWs are being used in a disproportionate manner against certain populations or high risk groups, and recommending training and policy changes to enhance public and officer safety.
- b. The ECW Coordinator shall be notified and respond to any ECW activation that results in serious bodily injury or death or the ECW activation precedes an officer-involved shooting.
- c. For any ECW activation that results in serious bodily injury or death, the ECW Coordinator shall review the incident and provide a written analysis about whether the officer's deployment of the ECW was reasonable, including the officer's tactics and decision-make that preceded the deployment of the taser, and any training or policy recommendations.

7. ECW Coordinator's Equipment and Testing Responsibilities

- a. The ECW Coordinator is responsible for issuing and maintaining the Department's ECWs and cartridges
- b. The ECW Coordinator's weapon maintenance duties include 1) weapon inventory and assignment; 2) ancillary equipment inventory and issue; output testing and measurement; software updates; functional testing; periodic and incidental data download
- c. The ECW Coordinator is responsible for conducting quarterly inspection, maintenance, and independent testing of the ECWs to ensure that they are operating within the manufacturer's recommended parameters.

EXHIBIT D

BUREAU ORDER

UNIT
INDEX
NUMBER

DRAFT

DATE
ISSUED

02/10/16

SUBJECT:

Conducted Energy Devices

ISSUED

TO:

Special Operations Bureau

ISSUED

BY:

The San Francisco Police Department's highest priority is safeguarding the sanctity of all human life. Officers shall demonstrate this principle in their daily interactions with the community they are sworn to serve. The Department is committed to using thoughtful communication, and de-escalation principles before resorting to the use of force, whenever practical. The Law Enforcement Code of Ethics requires all sworn law enforcement officers to carry out their duties with courtesy, respect, professionalism, and to never employ unnecessary force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

This order establishes policies and reporting procedures regarding the issuance and use of Conducted Energy Devices (CED), and the supervisory responses required after the use of a CED. Officers' use of CEDs shall be in accordance with DGO 5.01, Use of Force, and DGO 5.01.1, Use of Force Reporting.

I. POLICY

- A. GENERAL.** The Department is committed to the sanctity and preservation of all human life, human rights, and human dignity. It is the policy of this Department to only use CEDs to protect the public and officers from serious injury or death by a subject armed with a weapon other than a firearm. The CED is not recommended for use on a subject armed with a firearm.

In addition to the policies and procedures outlined in this Bureau Order, officers equipped with CEDs shall adhere to the policies and procedures outlined in Department General Order (DGO) 5.01, Use of Force.

- B. PRIOR TO THE USE OF A CED.** When safe and practical under the totality of circumstances, officers shall consider other available options before using a CED.

- 1. DE-ESCALATION.** As stated in DGO 5.01, Use of Force, de-escalation techniques are actions used by officers, when safe to do so, that seek to decrease the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance. These techniques are more fully described in DGO 5.01, Use of Force.

Officers should consider the possible reasons that a subject may be noncompliant or resisting arrest. A subject may not be capable of understanding the situation because of a medical condition; mental, physical, or hearing impairment; language barrier; drug interaction; or emotional crisis, and have no criminal intent. These situations may not make the subject any less dangerous, but understanding a subject's situation may enable

officers to use de-escalation techniques that will be more effective while maintaining public safety and officer safety.

2. **PROPORTIONALITY.** It is important that an officer's level of force be proportional to the severity of the offense committed or the threat to human life for which the officer is taking action posed to human life. Officers may only use the degree of force that is reasonable and necessary to accomplish these lawful duties.

It is critical officers apply the principles of proportionality when encountering a subject who is armed with a weapon other than a firearm, such as an edged weapon, improvised weapon, baseball bat, brick, bottle, or other dangerous object. Where officers can safely mitigate the immediacy of threat, and there are no exigent circumstances, officers should isolate and contain the subject, call for additional resources and engage in appropriate de-escalation techniques without time constraints. It is far more important to take as much time as needed to resolve the incident in keeping with the Department's highest priority of safeguarding all human life. Officers who proceed accordingly and delay taking a subject into custody, while keeping the public and officers safe, will not be found to have neglected their duty. They will be found to have fulfilled it.

II. DEFINITIONS

- A. ACTIVATION.** Depressing the trigger of the CED causing an arc or the firing of probes.
- B. CONDUCTED ENERGY DEVICE.** Any Department-issued device that fires darts, i.e., electrodes that are attached by wire to the main body of the device held by an officer, and that through these electrodes emits an electrical charge or current intended to temporarily disable a person.
- C. DEPLOYMENT.** Removal of the CED from the holster and pointing it at a subject.
- D. DISPLAYING THE ARC.** Displaying the electrical current to a subject by first removing the cartridge and then depressing the trigger of the CED.

III. PROCEDURES

- A. ISSUANCE AND CARRYING CEDS.** Only officers assigned to the Tactical Company or the Specialist Team are authorized to carry Department-issued CEDs after having successfully completing the Department's Crisis Intervention Team (CIT) training and all other required Department-approved CED training. Officers shall only use Department-issued CEDs and cartridges.

Officers who have been issued the CED shall wear the device in a Department-approved holster and carry the CED in a weak-side holster on the side opposite their duty weapon to reduce the chances of accidentally drawing and/or firing their firearm.

Officers no longer assigned to the Tactical Company or the Specialist Team are not authorized to carry the CED and shall immediately surrender the CED to the Commanding Officer of the Tactical Company upon re-assignment.

B. INSPECTION. Officers carrying the CED shall perform an inspection of the CED at the beginning of every shift and:

1. Perform a daily spark test on the CED;
2. Ensure the CED is clearly and distinctly marked to differentiate it from the duty weapon and any other device;
3. Whenever practical, officers should carry two or more cartridges on their person when carrying the CED;
4. Officers shall be responsible for ensuring that their issued CED is properly maintained and in good working order. If an officer discovers that the CED is damaged or inoperable, the officer shall cease its use and promptly notify his/her supervisor and document the specific damage or inoperability issue in a memorandum. The supervisor shall facilitate a replacement CED as soon as practical;
5. Officer shall not alter the CED from the original factory specifications and markings;
6. Officers shall not hold both a firearm and a CED at the same time;
7. Due to the flammable contents in some chemical agent containers, officers shall only carry Department-issued Oleoresin Capsicum (OC) which is non-flammable (water based and will not ignite); and
8. Officers carrying the CED shall have an Automated External Defibrillator (AED) readily available when carrying the CED. The AED may be secured in the officer's Department vehicle or other secure location that would be reasonably accessible to the officer while performing his or her duties.

C. VERBAL AND VISUAL WARNINGS. Officers shall provide a verbal warning prior to using the CED, if practical, to:

1. Announce a warning to the subject and other officers of the intent to deploy the CED if the subject does not comply with an officer's command; and
2. Give the subject a reasonable opportunity to voluntarily comply unless it would pose a risk to the community, the officer or permit the subject to undermine the use of the CED.

If, after a verbal warning, a subject is unwilling to voluntarily comply with an officer's lawful orders and it appears both reasonable and practical 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 officer deploying the CED shall document that a verbal or other warning was given, or the reason a warning was not given, in the incident report or written statement.

D. AUTHORIZED USE OF THE CED. An officer may activate the CED when a subject is armed with a weapon other than a firearm, such as an edged weapon or blunt object, and the subject poses an immediate threat to the safety of the public or the officer(s).

It is essential that officers evaluate whether the use of the CED is objectively reasonable to subdue or control the subject, based the totality of the circumstances known to the

officer at the time of the incident. In some cases, other force options may be more appropriate as determined by the threat posed by the subject.

- E. SPECIAL CONSIDERATIONS.** The activation of the CED on certain subjects should generally be avoided unless the totality of the circumstances indicates that other available force options would be ineffective or would present a greater danger to the public, the subject or the officer, and the officer reasonably believes that the need to subdue the subject outweighs the risk of using the device.

Subjects who may be under the influence of drugs/alcohol or exhibiting symptoms of altered mental state (e.g., nudity, profuse sweating, irrational behavior, extraordinary strength beyond physical characteristics or impervious to pain) may be more susceptible to collateral problems. Officers shall closely monitor these subjects following the application of the CED until they can be examined by emergency medical personnel.

- F. PROHIBITED USE.** Officer are prohibited from using the CED:

1. On an unarmed subject;
2. On the following subjects armed with a weapon other than a firearm:
 - a. On a subject who is only a danger to him/herself;
 - b. Females who are obviously pregnant;
 - c. Visibly frail;
 - d. Children (who appear under 14 years of age);
 - e. Subjects whose position or activity may result in collateral injury (e.g., falls from height; operating an automobile, motorcycle or bicycle);
 - f. On a fleeing subject;
 - g. On a subject who is passively resisting;
 - h. Subjects who have recently been sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based OC spray.
3. To prevent a subject from destroying evidence, such as placing evidence in his/her mouth;
4. To psychologically torment, punish or inflict undue pain on an subject;
5. For interrogation purposes or to elicit statements;
6. As a prod or escort device;
7. To rouse unconscious, impaired or intoxicated subjects;
8. In the drive stun mode – activating the CED with the cartridge removed and placing the electrodes upon the skin or clothing of the subject; and
9. Subjects who are handcuffed or otherwise restrained.

- G. TARGET AREAS.** 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 does not permit the officer to limit the application of the CED probes to a precise target area, officers shall monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by emergency medical personnel.

- H. SUBSEQUENT APPLICATIONS OF THE CED.** Officers should apply the CED for only one standard cycle. Thereafter, officers shall evaluate the situation before applying any subsequent cycle. Officers should avoid subsequent applications of the CED against a single subject unless the officer reasonably believes that the need to subdue the subject outweighs the potentially increased risk posed by applying a subsequent cycle.

Every application of the CED is a separate use of force, and officers must be able to articulate the reason for each use of the CED.

If the first application of the CED appears to be ineffective in gaining control of a subject, before a subsequent application of the CED is applied, the officer should consider additional factors, including but not limited to whether:

1. The probes are making proper contact;
2. The subject has the ability and has been given a reasonable opportunity to comply; or
3. Verbal commands, other options may be more effective.

No more than one officer shall activate a CED against a single subject at the same time.

- I. OFFICER REQUIREMENTS AFTER DEPLOYMENTS/ACTIVATIONS.** Officers shall contact the Department of Emergency Management (DEM) and request emergency medical personnel to respond to the scene of a CED application.

Officers shall notify a supervisor of all CED deployments and activations, including all unintentional discharges; pointing the device at a person; laser activation; and arcing the device, in compliance with DGO 5.01, Use of Force.

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.

- J. DUTY TO RENDER FIRST AID.** Officers shall render first aid when a subject is injured or claims injury caused by an officer's use of force unless first aid is declined, the scene is unsafe, or emergency medical personnel are available to render first aid. Officers shall continue to render first aid and monitor the subject until relieved by emergency medical personnel.

Only appropriate emergency medical personnel should remove CED probes from a person's body. Officers shall treat used CED probes as biohazard sharp objects, such as a used hypodermic needle, and shall use universal precautions when handling used CED probes.

- K. DUTY TO PROVIDE MEDICAL ASSESSMENT.** Officers shall arrange for a medical assessment and removal of CED probes from a person's body by emergency medical personnel.

- L. DUTY TO PROVIDE MEDICAL EVALUATION.** All subjects who have been struck by CED probes or who have been subjected to the electric discharge of the device shall be transported by emergency medical personnel for evaluation at a local medical facility as soon as practical.

If a subject refuses medical evaluation, the refusal shall be directed to the on-scene emergency medical personnel and not to the officer. Officers shall document a subject's refusal in the incident report by listing the name and identification number of the emergency medical personnel who obtained the refusal from the subject. The officer shall inform any person providing medical care and the personnel receiving custody of the subject that he or she has been subjected to the application of the CED.

- M. BOOKING OF SUSPECT.** Anyone subject to criminal charges who has been struck by CED probes or who has been subjected to the electric discharge of the device shall not be detained at a district station holding facility. Officers shall immediately book the arrested subject into the county jail upon release from the medical facility. Officers shall note the use of the CED on the field arrest card on any subject who has been struck by CED probes or who has been subjected to the electric discharge of the device.

- N. DOCUMENTATION REQUIREMENTS.** Officers shall document all CED deployments and activation, including all unintentional discharges; pointing the device at a person; laser activation; and arcing the device, in an incident report, supplemental incident report or a written statement. Officers shall include the following information in the incident report or written statement:

1. Date, time and location of the incident;
2. The subject's actions necessitating the use of the CED, including the weapon displayed by the subject;
3. Subject's known or suspected drug use, intoxication or other medical problems;
4. De-escalation techniques used by the officer(s);
5. Whether the officer used other force options;
6. The type and brand of CED and cartridge serial number;
7. Whether any display, laser or arc deterred a subject and gained compliance;
8. 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;
9. The distance at which the CED was used;
10. Location of any probe impact;
11. Description of where missed probes went;
12. Information about the medical care provided the subject;
13. Whether the subject sustained any injuries;
14. Whether any officers sustained any injuries;
15. Identification of all officers firing CEDs;
16. Identification of all witnesses; and
17. All supervisory notifications required by DGO 5.01, Use of Force.

Commanding Officer of the Tactical Company shall route a copy of all incident reports involving the use of a CED to the Commanding Officer of the Training Division.

Officers at the Police Academy Physical Techniques and Defensive Tactics staff shall analyze all incident reports involving CED use, upon receipt, to identify trends, including deterrence and effectiveness. CED information and statistics, with identifying information removed, shall be made available to the public.

- O. SUPERVISOR RESPONSIBILITIES.** Supervisors shall 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, including negligent or unintentional activations. Upon arrival at the scene, the supervisor shall:

1. Conduct a supervisory evaluation regarding the CED application as required by DGO 5.01.1;
2. Notify a superior officer to initiate an immediate evaluation by the Internal Affairs Division – Admin consistent with the response to an Officer-Involved Discharge;
3. Confirm that any probes that have pierced the subject's skin are removed by medical personnel;
4. Ensure that photographs of probe sites are taken;
5. Ensure that all evidence is photographed, collected and properly booked;
6. Ensure that the subject is medically evaluated prior to being booked into any facility;
7. Ensure that the CED's memory record has been uploaded;
8. Review all incident reports and written statements;
9. Provide replacement CED cartridges to the officer, as necessary;
10. Complete and submit the Supervisory Use of Force Evaluation Form; and
11. Enter the incident into the Use of Force Log and attach one copy of the incident report.

- P. OFF-DUTY CONSIDERATIONS.** Officers are not authorized to carry or use Department-issued CEDs while off-duty. Officers shall ensure that CEDs are secured in a manner that will keep the device inaccessible to others.

- Q. TRAINING.** Officers authorized to carry the CED shall be permitted to do so only after successfully completing Crisis Intervention Team (CIT) training and Department-approved CED training. Any officer who has not carried the CED as a part of his or her assignment for a period of six months or more shall be recertified by a Department-approved CED instructor before carrying or using the device.

Proficiency training for officers who have been issued CEDs shall occur bi-annually. A reassessment of an officer's knowledge or practical skill may be required at any time if deemed appropriate by the Department-approved CED instructor. All training and proficiency for CEDs will be documented in the officer's training file.

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

Officers who do not carry CEDs should receive training that is sufficient to familiarize themselves with the device and with the tactics of deployment and activation of the CEDs.

The Commanding Officer of the Training Division is responsible for ensuring that all officers who carry CEDs have received initial and bi-annual proficiency training.

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

The Commanding Officer of the Training Division shall ensure that all training includes:

1. A review of this Special Operations Bureau Order;
2. A review of DGO 5.01, DGO 5.01.1, DGO 5.02;
3. Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm;
4. Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin;
5. Handcuffing a subject during the application of the CED and transitioning to other force options;
6. Scenario-based training;
7. CIT updates;
8. De-escalation techniques; and
9. Restraint techniques that do not impair respiration following the application of the CED.

DRAFT

EXHIBIT E

Seconds Matter: AED Access is Critical to Reduce Risk of Sudden Death with Taser Use

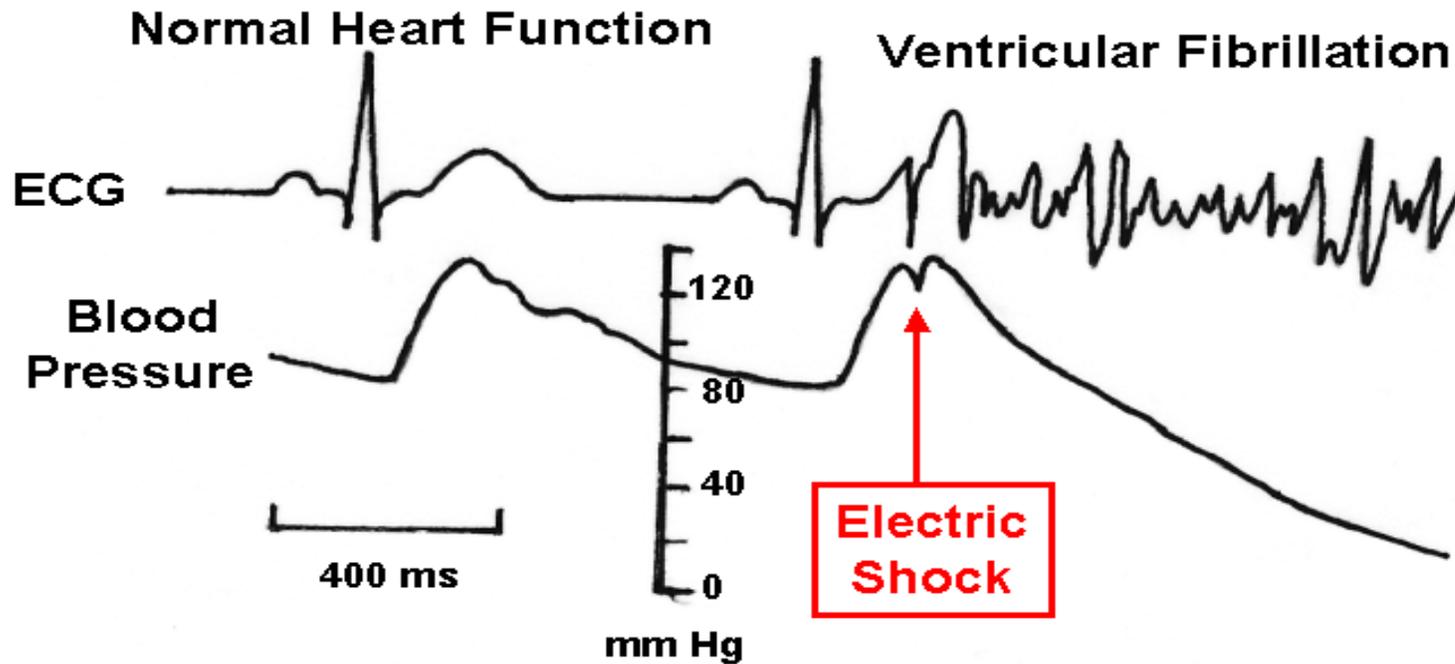
14 March 2018

San Francisco Police Commission Taser Policy Meeting

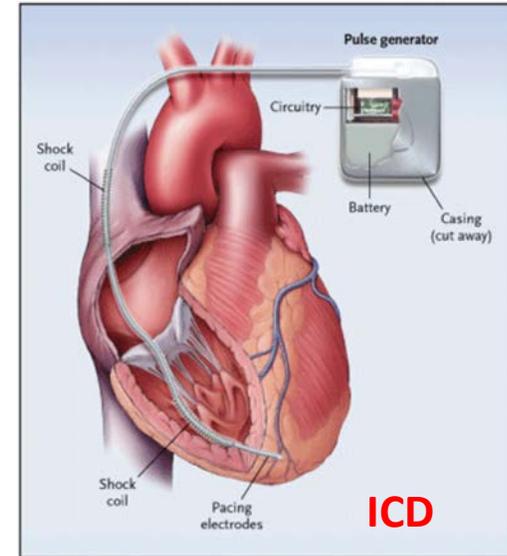
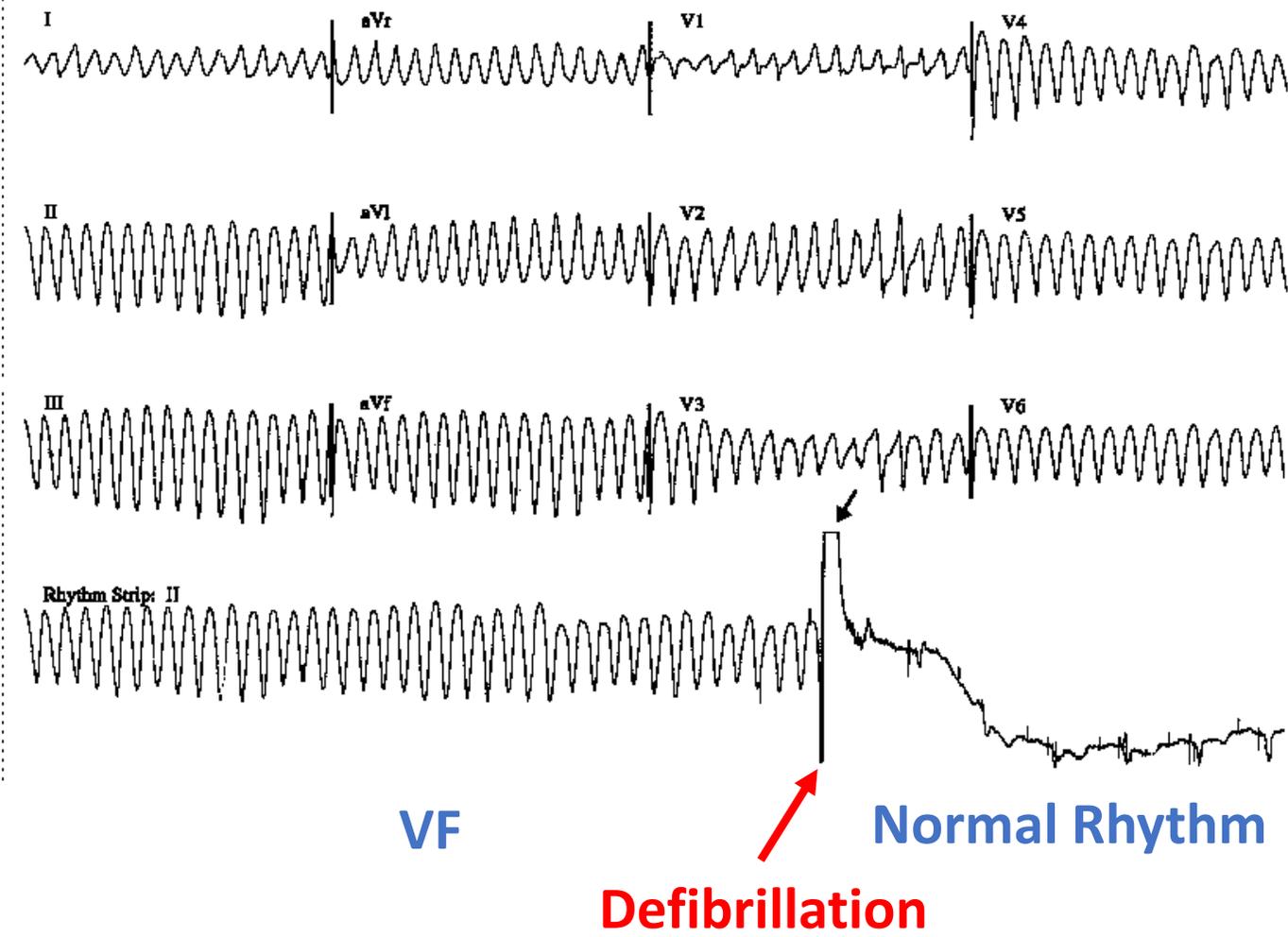
Zian H. Tseng, M.D., M.A.S.
Murray Davis Endowed Professor
Professor of Medicine in Residence
Cardiac Electrophysiology Section
University of California, San Francisco

Cardiac Arrest (VF) Can Be Caused by Electric/Taser Shock

Heart Function and Electric Shock



Rescue from Cardiac Arrest (VF) By AED



Seconds Matter: Time to Defibrillation is Critical for Survival from Cardiac Arrest

