

Richmond Police Department

Policy Manual

Conducted Energy Device - 63

Adoption Date: 2016/05/13

© 1995-2016 Lexipol, LLC

Conducted Energy Device

309.1 PURPOSE AND SCOPE

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

309.2 POLICY

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.

309.3 ISSUANCE AND CARRYING CEDS

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

TASERs 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 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 support-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 four 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.

309.4 VERBAL AND VISUAL WARNINGS

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:

(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.

309.5 USE OF THE CED

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.

309.5.1 APPLICATION OF THE CED

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.

309.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

ECDs shall only be used against persons who are actively resisting or exhibiting active aggression,

or to prevent individuals from harming themselves or others.

(a) An ECD shall not be used against a passive suspect.

(b) No more than one officer shall activate an ECD against a person at a time.

(c) When activating an ECD, an officer shall use it for one standard cycle and stop to evaluate the situation (a standard cycle is five seconds). If a subsequent cycle is necessary, officers shall restrict the duration of that cycle to the minimum activation necessary to place the subject in custody.

(d) ECD deployment against a subject is limited to three successful contacts and cycles.

If after the third successful contact and standard cycle the subject does not submit to verbal commands and/or arrest, an officer must use other force options based on the "Reasonableness Test".

(e) Training protocols have emphasized that multiple activations and continuous cycling of an ECD appear to increase the risk of death or serious injury and should be avoided whenever possible.

(f) A fleeing subject shall not be the sole justification for use of an ECD. Severity of offense and other circumstances must be considered before officers use an ECD on a fleeing subject.

(g) ECDs shall not be used against obviously pregnant women, elderly persons, children, and visibly frail persons unless exigent circumstances exist that present a high level of danger to the officer or others.

(h) ECDs shall not be used to facilitate the forced withdrawal of blood evidence from DUI violators.

(i) ECDs shall not be used on children who appear to be under the age of 12 years.

(j) ECDs shall not be used on handcuffed persons.

(k) Caution shall be used in utilizing an ECD when a subject is in a location where a fall might cause substantial injury or death.

(l) ECDs shall not be used against a suspect in physical control of a vehicle in motion, or a vehicle that might be placed in motion, including automobiles, trucks, motorcycles, ATVs, bicycles, and scooters.

(m) ECDs shall not be used in the presence of known combustible vapors and liquids, or other flammable substances, including, but not limited to, alcohol-based Oleoresin Capsicum (O.C.) spray carriers.

(n) When a subject is armed with an ECD and attacks or threatens to attack a police officer, the officer may defend him or herself to avoid becoming incapacitated and risking the possibility that the subject could gain control of their firearm. When possible, officers shall attempt to move outside the device's range (approximately 21 feet) and seek cover, as well as request backup officers to mitigate the danger.

(o) It shall be mandatory for all trained uniformed officers at the rank of Sergeant and below to carry an ECD while on street duty.

309.5.3 TARGETING CONSIDERATIONS

Officers shall avoid firing probes at a subject's head, neck or genitalia. While manufacturers have generally recommended that reasonable efforts be made to target lower center mass and avoid intentionally targeting the head, neck, groin and chest, it is recognized that the dynamics of each situation and officer safety may not permit the officer to limit the application of the CED to a precise target area. As such, officers should take prompt and ongoing care to monitor the condition of the

subject if one or more darts strikes the head, neck, chest or groin.

309.5.4 ACTIONS FOLLOWING DEPLOYMENTS

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.

309.5.5 DANGEROUS ANIMALS

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.

Officers

shall document all deployments involving an aggressive animal in a police report and through a Use of Force report form. The officer's supervisor shall author and route an administrative memorandum through the appropriate chain of command.

309.5.6 OFF-DUTY CONSIDERATIONS

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.

309.6 DOCUMENTATION

Officers shall document all CED discharges in the related arrest/crime report and the CED 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 report form.

309.6.1 CED FORM

Items that shall be included in the CED report form are:

- (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 CED 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 Training Sergeant should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Sergeant should also conduct audits of data downloads and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

309.6.2 REPORTS

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

309.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel should remove CED probes from a person's body. Used CED 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:

- (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.

309.8 SUPERVISOR RESPONSIBILITIES

A supervisor must respond to all incident scenes where a CED was activated. A supervisor will conduct an initial review of the CED activation and document such activation on the appropriate Use of Force Report. Every instance of CED use, including accidental discharges, will be accounted for in a Use of Force report.

(a) Every instance where the CED is drawn and displayed, even when an electronic cycle is not actually deployed, will be documented in a Use of Force report. Every use ("drive stun" or standard probe discharge) shall be documented in a supervisory administrative investigation. The investigation shall include:

1. Location and interview of witness (including other officers);
2. Photographs of subject and officer injuries;
3. Photographs of cartridges/probes;
4. Collection of CED cartridges, probes, confetti ID tags, (car video if applicable) by the Crime Scene Investigator and processed into evidence;
5. Copies of the device data download. Departmental personnel should be aware that CED download data may be unreliable. Investigators should be able to articulate the difference between the actual duration of CED activation on a person and the total time of discharge registered on the CED device.

(b) Supervisors will forward all cases to the Professional Standards Unit for additional investigation when any of the following factors are involved:

1. A subject experiences death or serious injury (Officer Involved Protocols will be initiated);
2. A person experiences prolonged CED activation;
3. The CED appears to have been used in a punitive or abusive manner;
4. There appears to be a substantial deviation from training in how the CED was utilized;
5. The person in an at-risk category has been subjected to CED activation (e.g., young children, persons who are elderly/frail, obviously pregnant women, and any other activation as determined by a supervisor). All CED activations will be tracked by the Professional Standards Unit. Information will be shared with the Department's Major Incident/Use of Force Committee.

(c) The Professional Standards Unit will conduct regular audits of CED data downloads and reconcile use of force reports with recorded activations. The Professional Standards Unit will maintain statistical information in order to identify CED trends and deployment concerns. The following statistical information will be included when collecting information about CED use:

1. Date, time, location of incident;
2. The use of the laser dot or display of the CED deterred the subject and gained compliance;
3. Descriptive information about the suspect (including membership in any at-risk population group);
4. All officers firing the CED and all officer witnesses;
5. All other witnesses;
6. The number of CED cycles, the duration of each cycle, the duration between cycles, and the duration that the subject was actually activated;
7. Level of aggression the officer utilizing the CED encountered from the subject;
8. Any weapons possessed by the subject;
9. The type of crime/incident the subject was involved in;
10. The type of clothing worn by the subject;
11. The distance range at which the CED was used;
12. The type of mode used (probe or drive stun);
13. The point of impact of the probes on the subject in probe mode;
14. The point of impact on the subject in drive stun mode;
15. Location of missed probe(s);
16. Terrain and weather conditions;
17. Lighting conditions;
18. The type of cartridge(s) used;

19. If the subject was believed to be under the influence of alcohol or drugs (specify if available);

20. Medical care provided to the subject; and

21. Any injuries incurred by officer(s) or subject.

309.9 TRAINING

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial department-approved training. Any personnel who have not carried the CED

as a part of their assignment for a period of six months or more shall be recertified by a department approved

CED instructor prior to again carrying or using the device.

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 Training Sergeant. 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 Training Sergeant 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 Training Sergeant should ensure that all training includes:

(a) A review of this policy.

(b) A review of the Use of Force Policy.

(c) Performing support-side draws or cross-draws to reduce the possibility of accidentally drawing and firing a firearm.

(d) Target area considerations, to include techniques or options to reduce the accidental 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.