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## **ELECTRONIC CONTROL WEAPON REVIEW BOARD**

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

### **I. POLICY**

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

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

If the effective use of an ECW 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 ECW activation.

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

*The San Francisco Police Department recognizes the public's interest in learning about the Department's use of ECWs. 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 ECW causing the firing of probes or placing the ECW on a subject in the drive stun mode. An effective activation occurs when the subject is exposed to both ECW probes resulting in Neuromuscular Incapacitation (NMI) or when the fixed electrodes in drive stun mode come into direct contact with the subject's skin or clothing.

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<sup>1</sup> Abrasions, hematomas, contusions - examples

### **III. PROCEDURES**

#### **A. COMPOSITION OF ECW REVIEW BOARD**

1. The ECW Review Board shall be composed of:

- Two members 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 ECW 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 ECW Review Board's proceedings.

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

#### **B. DUTIES OF THE ECW REVIEW BOARD.**

1. On a quarterly basis, the ECW Review Board shall meet and review every incident involving an effective ECW activation that results in an injury other than that caused by routine probe removal or superficial injuries. The ECW Review Board will also review ECW 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 ECW Review Board's written analysis of ECW activations shall include:
  - a. Whether the force used was consistent with DGO 5.01, *Use of Force*, III.B.2. a-m. 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 had 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 ECW;
- Whether there was an opportunity to warn about the use of force prior to activation of the ECW , 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 posed 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 ECW activation (i.e. review of ECW data uploaded from the actual device – event log, pulse log, and engineering log.
  - d. Whether the Use of Force investigation was complete.
  - e. Identify and make recommendations concerning the Department's policies, training, equipment, tactics and supervisor.
4. ECW 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.
  5. The ECW Review Board shall also review through a random, blind sampling, ten percent of all non-injury ECW effective activation incidents that occurred during the quarter before the ECW Review Board meets.
  6. The ECW Review Board shall forward its findings, including ECW 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 ECW 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.

7. Duties of the ECW 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 ECW REVIEW BOARD**

The ECW Review Board is an interim measure to ensure that all effective ECW activations that result in an injury as defined by this order receive prompt review. The ECW'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.