

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 a serious bodily injury. All ECD activations that do not meet the criteria for review by the ECD Review Board are reviewed and evaluated as outlined in DGO 5.01, Section VII. B.2.a-h. and Section VII. C.4.

Commented [S1]: To address DPA, Mr. Vanderpool, DPH and COH comments

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 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 when the fixed electrodes in drive stun mode come into are in 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:

San Francisco Police Department
Conducted Energy Device
Appendix A

DGO 5.02
01/23/18

- 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

Commented [S2]: Added to address Mr. Vanderpool's comment

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.

Commented [S3]: Added to address DPA's comments

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 will shall meet and review every incident involving ECD activation that result in serious bodily injury or death and also review ECD data as outlined in DGO 5.01, Section VII. C.6.a-1. 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 will include¹:
 - a. The severity of the alleged crime at issue;
 - b. Whether the suspect posed an immediate threat to the safety of the officers or others;
 - c. Whether the suspect was actively resisting arrest or attempting to evade arrest by flight;
 - d. Whether the use of force was proportional to the threat;
 - e. The availability of other feasible, less intrusive force options;
 - f. The officer's tactical conduct and decisions preceding the use of force;
 - g. Whether the officer hads reason to believe that the subject was mentally ill; had a physical, developmental or cognitive disability;or was emotionally

Commented [S4]: To address Mr. Vanderpool's and DPH's comment about what data will be reviewed

¹ DGO 5.01, III.B.2 a-m

San Francisco Police Department
Conducted Energy Device
Appendix A

DGO 5.02
01/23/18

disturbed or ~~was is~~ under the influence of alcohol or drugs at the time of the incident resulting in the activation of the ECD;

- h. Whether there was an opportunity to warn about the use of force prior to ~~force activation of the ECD being used~~, and if so, was such a warning given;
- i. Whether ~~there was any assessment by~~ the officer made any assessment of the subject's ability to cease resistance and/or comply with the officer's commands;
- j. Specialized knowledge, skills, or abilities of subjects;
- k. the subject's prior contact with law enforcement;
- l. Environmental factors, including but not limited to lighting, footing, sound conditions, crowds, traffic and other hazards at the time of the incident; and
- m. Whether the subject's escape ~~could~~ posed a future safety risk.
- n. Evaluation of supervisory response;
- o. Whether an officer attempted de-escalation tactics prior to using force, if feasible;
- p. 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.)

Commented [S5]: Included based on COH and DPA's comments

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

- 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.
- 5. The ECD Review Board ~~shall will~~ forward its findings 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.
- 6. The Department ~~shall will~~ prepare a quarterly report containing comprehensive data on ECD activations per SF Administrative Code 96A, along with policy and training recommendations. On a quarterly basis, the Department ~~shall will~~ provide the report to the Police Commission and ~~shall will~~ post the report on the Department's website.

Commented [S6]: Included based on Mr. Vanderpool's comments.

Commented [S7]: Included based on language from DPA and COH comments

This report shall be a public record. No report that is made public shall disclose any information that the law makes confidential. deemed confidential by law.

- 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.

Commented [S8]: Included based on language from DPA and COH

IV. TERMINATION OF ECD REVIEW BOARD

The ~~creation of this~~ ECD Review Board is an interim measure to ensure that all ECD uses that result in serious injury 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 review board.