

I. POLICY

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.

This purpose of this policy is to establish the procedures guidelines for proper deployment, activation, testing, supervisory response, training, data collection, data analysis, reporting requirements, and monitoring training, data collection and analysis of Electronic Control Weapons (ECW).

and the supervisory response which shall be taken thereafter.

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 ECWs to protect the public and officers from serious injury or death by a subject armed with a weapon other than a firearm. The ECW shall not be used on a subject armed with a firearm.

B. **PRIOR TO THE USE OF AN ECW.** When safe and practical, officers shall consider other available options before using an ECW. Further, officers are reminded to consider the principles outlined in DGO 5.01: Sanctity of Human Life, Establish Communication, De-escalation, Proportionality, Crisis Intervention, Duty to Intervene, Levels of Force, and Force Options.

C. **LESS-LETHAL ALTERNATIVES.** It is the policy of the San Francisco Police Department (SFPD) to equip members with less-lethal alternatives, such as an ECW/CEW, to resolve encounters with subjects who are 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 officers.

who are actively resisting, assaultive, or exhibiting any action likely to result in serious bodily injury or death of another person, themselves or the member.

B-D. **TRAINING.** Only officers assigned to the Tactical Company or the Specialist Team members who have successfully completed the Department's Use of Force policy update and the Crisis

Comment [1]: This is SFPD's Use of Force policy statement (Department General Order 5.01) that was adopted by the San Francisco Police Commission on December 22, 2016. SFPD included an earlier version of this introduction in its proposed Special Operations Bureau Order on Conducted Energy Devices (05/30/16). "The San Francisco Police Department's highest priority is safeguarding the sanctity of all human life. Officers shall demonstrate this principle in the daily interactions with the community they are sworn to serve. The Department is committed to accomplishing the police mission with respect and minimal reliance on the use of force using rapport-building, communication, crisis intervention and de-escalation principles before resorting to force, whenever feasible. 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."

Comment [2]: The Department of Police Accountability recommends that consistent with the Police Executive Research Forum ... [1]

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Comment [3]: SFPD proposed this provision in its Special Operations Bureau Order on Conducted Energy Devices (05/30/16), S ... [2]

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Comment [7]: In 2016 SFPD proposed a taser policy to permit Tactical Company or Specialists to use ECWs when an individ ... [6]

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Intervention Team (CIT) Field Tactics training and all other required Department-approved ~~ECW~~ ~~CED~~ training are authorized to carry ~~ECW~~ ~~CED~~s.

~~EC.~~ REPORTING AND REVIEW. The SFPD will thoroughly investigate, ~~and~~ accurately document all facts and information when a member of the SFPD activates an ~~ECW~~ ~~CED~~, intentionally or unintentionally, and review such incidents individually and in aggregate to determine compliance with the policy, recommend and implement policy and training improvements, and to identify and report upon trends. Review will include data stored within the ECW as well as body camera video. ~~The Department shall assign an ECW Coordinator and other appropriate staff to oversee training, testing, data collection and analysis, and policy implementation.~~

F. USE OF FORCE POLICY. The activation of a ~~ECW~~ ~~CED~~ by a member in the performance of his/her duties is considered a use of force, and must therefore conform to the methods, tactics, policies and procedures adopted by the SFPD. (See DGO 5.01, *Use of Force*).

G. DE-ESCALATION AND LESSER FORCE OPTIONS. The use of an ~~ECW~~ ~~CED~~ is not intended to replace communication or tactics ~~or training~~ that can be utilized to calm or control a person, or to de-escalate a situation and reduce the degree or avoid the use-need of of force. An officer shall not deploy an ECW unless no lesser force option has been, or will be, effective in eliminating the risk of bodily harm; and de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the risk of bodily harm.

~~H.~~ ~~ECWs can cause death or serious injury.~~
~~an(move to procedure section SM)~~

II. DEFINITIONS

~~A.~~ ACTIVATION. Depressing the trigger of the ~~ECW~~ ~~CED~~ causing the firing of probes
~~A.~~ ~~or placing the CED on a subject in the drive stun mode.~~

~~B.~~
~~ACTIVE RESISTANCE. Physically evasive movements to defeat an officer's attempt at control, including bracing, tensing, running away, verbally or physically signaling an intention to avoid or prevent being taken into or retained in custody.~~

~~ASSUALTIVE. Aggressive or combative; attempting to assault the officer or another person, verbally or physically displays an intention to assault the officer or another person.~~

~~C-B.~~ AUTOMATED EXTERNAL DEFIBRILLATOR. A portable device that can treat sudden cardiac arrest by checking the heart rhythm and sending an electric shock to the heart to try to restore a normal rhythm.

~~D.~~ COMPLIANT. Subject offers no resistance.

Comment [8]: SFPD proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (A) (05/30/16) in which officers assigned to the Tactical Company or the Specialist Team would be provided ECWs. The Maryland Attorney General's Task Force on Electronic Weapons concluded that the success of adopting ECWs depends in significant part on whether the law enforcement agency has carefully researched and evaluated the impact of using ECWS, and whether it has involved the community in this process. It emphasized that an ECW program is complex and requires a great deal of management oversight and thus phasing in the use of ECWs is beneficial. It also stated cautioned that "[n]to all law enforcement personnel should necessarily be permitted to use ECWs. During a pilot period in particular, agencies may benefit from issuing ECWs only to officers they have identified as having developed positive reputations within their communities and having a particularly strong history of good judgment. Any personnel selected to carry ECWs should be required to meet several criteria to ensure the weapon will be used safely and with restraint. Factors that sh...

Comment [MS(9): See Braidwood Commission's Report on Conducted Ene...

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Comment [MS(10): In *Armstrong v. Village of Pinehurst* (4th Cir.2016) 8120 F.3d 892, the Court concluded that "a police officer n...

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~~E.C.~~ CONFETTI TAGS. Tags that provide accountability for each deployment of an CEDECW cartridge via the dispersal of minute coded tags specific to that cartridge.

~~F.~~ ~~CONDUCTED ENERGY DEVICE (CED). A weapon designed primarily to discharge electrical impulses into a subject that will cause involuntary muscle contractions and override the subject's voluntary motor responses.~~

~~G.D.~~ DEPLOYMENT. Removal of the CEDECW from the holster and pointing it at a subject.

~~H.E.~~ DISPLAYING THE ARC. A compliance function of the CEDECW. This method involves displaying the electrical current to a subject by first removing the cartridge and then depressing the trigger.

~~F.~~ DRIVE STUN. Activating the CEDECW with the cartridge removed or discharged, and placing the electrodes upon the skin/clothing of the subject.

~~G.~~ ELECTRONIC CONTROL WEAPON (ECW). A weapon designed primarily to discharge electrical impulses into a subject that will cause involuntary muscle contractions and override the subject's voluntary motor responses.

~~H.~~ EXCITED DELIRIUM. A state of extreme mental and physiological excitement characterized by acute paranoia, aggression, bizarre and violent behavior, extraordinary strength, hyperactivity, hyperthermia (overheating, often accompanied by removal of clothing), imperviousness to pain, incoherent shouting, panic and profuse sweating. It has been associated with persons suffering from psychiatric illness (particularly bipolar schizophrenia), persons who are chronic illegal stimulant substance abuse users (cocaine, methamphetamines), and persons suffering from a combination of mental illness and substance abuse.

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

~~M.~~ ~~PASSIVE NON COMPLAINE. Does not respond to verbal commands but also offer no physical form of resistance.~~

~~J.N.~~ PROBE DISCHARGE. When the trigger is depressed on the CEDECW, the probes are discharged from the cartridge which can penetrate a subject's clothing or skin, simultaneously discharging an electric current.

~~K.O.~~ SPARK TEST. This test assists an officer in determining the functionality and the battery life of the CEDECW.

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III. PROCEDURES

A. ISSUANCE AND CARRYING CEDECWS.

~~1. Only officers assigned to the Tactical Company or the Specialist Team are authorized to carry Officers shall only use Department-issued CEDECWs and cartridges after successfully completing the Department's Crisis Intervention Team (CIT) training and all other required Department-approved ECW training.~~

~~2. Officers who have been issued the CEDECW shall wear the device in a Department-approved holster and carry the CEDECW in a weak-side holster on the side opposite their duty weapon.~~

~~3. Officers shall not hold a firearm and an ECW at the same time. 3. Officers shall not hold a firearm and an ECW at the same time.~~

~~4. No more than one officer shall activate an ECW against a single subject at the same time. Only one officer shall deploy an ECW at the same subject.~~

~~5. Officers equipped with an ECW shall be trained in the use of an Automated External Defibrillator (AED) and have an AED readily available when equipped with an ECW. The AED shall 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. Officers carrying ECWs shall have an Automated External Defibrillator (AED) readily available when carrying the ECW and shall have been trained in the use of an AED. The AED shall 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.~~

~~6. Officers carrying an ECW shall wear a body camera and activate the body camera in compliance with Department General Order 10.11 and as soon as the officer contemplates using an ECW against a subject. Officers carrying an ECW shall wear a body camera and activate the body camera in compliance with Department General Order 10.11 and as soon as the officer contemplates using the ECW.~~

~~The Department will ensure that Automated External Defibrillators (AED) are readily available in Department vehicles in all police districts.~~

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

Comment [11]: See SFPD's proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (A) (05/30/16). When the Department proposed ECWs last year, it recommended a pilot program in which officers assigned to the Tactical Company or Specialist Team would be provided ECWs.

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Comment [MS(12)]: See SFPD's proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (B) (6) (05/30/16).

Comment [13]: See SFPD's proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (B) (6) (05/30/16).

Comment [MS(14)]: See SFPD's proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (H) (05/30/16).

Comment [MS(15)]: See SFPD's proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (B)(8) (05/30/16).

Comment [16]: See SFPD's proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (B)(8) (05/30/16).

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1. Perform a daily spark test on the CEDECW at the officer's station or unit before leaving the facility;
2. Ensure the CEDECW 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 CEDECW;
4. Officers shall be responsible for ensuring that their issued CEDECW is properly maintained and in good working order. If an officer discovers that the CEDECW 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 contact the ECW coordinator to facilitate a replacement CEDECW as soon as practical.
5. Officers shall not alter the CEDECW from the original factory specifications and markings.
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. BEFORE DEPLOYMENT

1. Medical: Medical units shall be staged near the scene prior to ECW activation when possible. This precaution will greatly reduce response time if a medical emergency occurs. A person's pre-existing condition and/or drug intoxication level are usually unknown to officers.

~~2. 8. Officers carrying an ECW shall wear a body camera and activate the body camera in compliance with Department General Order 10.11 and as soon as the officer contemplates using the ECW.~~

~~Verbal and Visual Warning ERBAL AND VISUAL~~

~~C. WARNINGS.~~

~~1. Prior to activation of the ECW Warning: Prior to activation of the CED, the officer shall loudly announce that the CEDECW is going to be activated.~~

~~2. Purpose: The purpose of the warning is to:~~

- a) Provide the individual with a reasonable opportunity to voluntarily comply, and
- b) Provide other members and other bystanders with a warning that the CEDECW may be activated.

~~3. The member activating the ECW shall document shall document in the incident report that a verbal or other warning was given or the reason it was not given.~~

~~D. D. STANDARD CYCLE AND ASSESSMENT.~~

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~~1.~~ 1. Standard Cycle: When activating the CEDECW, the officer ~~shall~~ should use it for one standard cycle (five seconds), ~~and~~ then stop and evaluate the situation.

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~~2.~~ 2. Assessment after One Cycle: If the first application of the ECW 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 ECW:

~~a)~~ a) Whether ~~it is reasonable to believe that~~ the need to control the individual outweighs the potentially increased risk posed by multiple applications;

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~~b)~~ b) Whether the probes are making proper contact;

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~~c)~~ c) Whether the individual has the ability and has been given a reasonable opportunity to comply; and

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~~d)~~ d) Whether verbal commands, other options or tactics may be more effective.

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~~3.~~ 3. Members must document in the incident report ~~must be able to articulate~~ the facts and circumstances that justified each cycle of the CEDECW.

4.4. Officers shall use the minimum number of cycles necessary to place the person into custody, and in any event, unless lethal force is justified, shall not employ more than three cycles or 15 total seconds of an CEDECW against a subject during a single incident.

5. In an attempt to minimize the number of CEDECW activations needed for a person's compliance, officers ~~shall~~ should 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.

6. Multiple applications of the CEDECW cannot be justified solely on the grounds that a person failed to comply with a command, absent other considerations ~~such as a weapon in close proximity as a mity of~~ the individual posing an immediate threat of physical injury to the ~~officers~~ officers or others.

E. DEPLOYMENT METHODS. The following are the deployment methods for the CEDECW:

1. Probe Deployment. The preferred method of CEDECW deployment is a probe deployment. Deploying the CEDECW with the cartridge attached allows two probes to deploy and penetrate the skin/clothing of a subject.

2. Drive Stun Deployment. ~~Deployment. The drive stun mode shall only be used to complete the incapacitation circuit. Members may use the CED in drive stun mode for the limited purpose~~

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~~of completing the incapacitation circuit. Members shall not use the CEDECW in drive stun mode as a pain compliance technique.~~

~~2. Use the ECW to achieve pain compliance has limited effectiveness and when used repeatedly, may even exacerbate the situation by inducing rage in the subject. (PERF's 2011 Guidelines as to Drive Stun effectiveness.)~~

3. Displaying the arc or deploying the CEDECW. This type of display may be all that is necessary to de-escalate a volatile situation. A subject may become compliant once faced with the realization that an CEDECW may be used on him or her. This CEDECW technique may be achieved either by pointing an CEDECW or displaying the arc at the subject. However, displaying the arc shall not be used in circumstances where actual use would not be justified (e.g., where the subject is exhibiting compliance or passive non-compliance, and other circumstances described in this policy).

Comment [MS(17): In its 2016 proposed ECW policy, SFPD prohibited officers from using an ECW in drive stun mode. (See Special Operations Bureau Order on Conducted Energy Devices (III) (F)(7).

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F. TARGET AREAS.

~~1. Officers shall shall target below the neck area for back shots and the lower center mass (below chest) for front shots and below the neck area for back shots. Back shots are preferable to front shots.~~

~~+~~

~~2. Officers shall avoid the head, neck, chest and groin, unless deadly force is justified.~~

~~3. If the dynamics of a situation or officer safety does not permit the officer to limit the application of the CED probe 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.~~

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~~4. Deploying the ECW across the chest area near the heart can induce cardiac capture (extra heart beats) which can lead to cardia arrest. Avoid targeting the frontal chest area near the heart to reduce the risk of serious injury or death.~~

~~5. The ECW laser can cause permanent damage if it is pointed at the eyes.~~

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G. DE-ESCALATION AND LESSER FORCE OPTIONS

~~1. The use of an ECW is not intended to replace communication or tactics that can calm or control a person or de-escalate a situation and reduce the need or degree of force.~~

~~2. Before resorting to an ECW, officers shall, when feasible, use de-escalation techniques as set forth in DGO 5.01 (III)(C) to reduce the need or degree of force.~~

~~HG. AUTHORIZED USE OF THE CEDECW. An officer may activate the ECW when a subject is:~~

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Comment [MS(18): Taser International Warning (May 19, 2017), page 2.

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Comment [MS(19): Taser International Warning (May 19, 2017), page 4.

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~~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 bodily harm to the officer or another; or~~

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~~2. The subject is causing bodily harm to the officer or another;~~

Comment [MS(20): See Braidwood Commission's Report on Conducted Energy Weapon Use, Executive Summary and Recommendations, page 19.

~~3. The officer has an objectively reasonable basis for believing the subject will immediately cause bodily harm to the officer or another.~~

~~Officers shall determine the reasonableness of CED use based upon totality of the circumstances, including but not limited to, the subject's level of resistance, the subject's apparent age and size, and the feasibility of lesser force options.~~

Comment [MS(21): See Braidwood Commission's Report on Conducted Energy Weapon Use, Executive Summary and Recommendations, page 19.

Officers shall use the minimum amount of ~~CEDECW~~ activations or cycles necessary to accomplish a lawful objective.

An officer may activate the CED 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 imminent threat to the safety of the public, him/herself or officers; or~~

~~2. Actively resisting the officer; or~~

~~3. Assaulting or attempting to assault an officer or another person or physically displays an intention to assault the officer or another person; or~~

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

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Comment [22]: Graham v. Connor (1989) 490 U.S. 386 provides three factors for determining whether an officer's use of force is reasonable: 1) the severity of the crime; 2) whether the suspect poses an immediate threat to the safety of the officers or others; and 3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight. DGO 5.01 requires an immediate threat, not an imminent threat. (See e.g. 5.01 (II)(B).)

~~**II. RESTRICTED ~~ED~~ CEDECW USE:** ECWs have the potential to result in serious bodily injury or death even when used in accordance with policy and training. Officers shall consider the heightened risk of serious bodily injury and death for the populations listed below and must be able to articulate the justification for exposing the person to increased risk.~~

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1. Except where deadly force would be permitted, an officer shall not use an ~~CEDECW~~:

a. if the subject is pregnant;

b. if the subject is ~~appears elderly over the age of 65~~;

c. if the subject is visibly frail;

d. ~~if the subject is thin if or the subject is thin (e.g. has a low body mass index)~~

e. if the subject ~~appears to be under is a child (under the age of 18)~~;

f. if the subject is ~~appears to be acting in a disturbed manner due to a mental health disability~~

~~f.g. if the subject has an intellectual disability, dementia, Alzheimer's disease or another type of neurological disorder actually or perceived to be mentally ill;~~

~~g.h. if the subject is in physical control of a vehicle in motion including automobiles, trucks, motorcycles, ATVs, bicycles, and scooters;~~

~~h.i. if the subject is in danger of falling from a significant height;~~

Comment [MS(23): See Taser International's Warnings that include "Conducted Electronic Weapon [c]an cause death or serious injury. (Taser Handheld ECW Warnings, Instructions, and Information: Law Enforcement, May 19, 2017, page 1.

Comment [MS(24):

Comment [MS(25): See The Report of the Maryland Attorney General's Task Force on Electronic Weapons, page 70.

- i. if the subject is on an elevated or unstable surface (e.g. tree, roof, ladder, ledge, balcony, porch, bridge or stair.)
- j. if the subject could fall and suffer an impact injury to the head or other area:
- k. if the officer knows or should have known that the subject suffers from a medical condition (e.g., heart condition)
- l. if the subject has been exposed recently to a flammable chemical agent ~~or explosive or is otherwise in close proximity to any known combustible vapor or flammable material,~~ including gasoline, propane, drug lab flammables, and alcohol-based OC spray. Department-issued OC spray is not flammable.
- m. if the subject is in close proximity to a flammable gas or liquid. Examples include:

- vehicle collision with fuel leaks
- methamphetamine lab investigation
- incidents that occur at gas stations
- suicidal persons who plan to use gasoline or other flammable liquids or chemicals to kill themselves

- o. if the subject could fall on a sharp object or surface (i.e. holding a knife, falling on glass)
- p. if the subject has impaired reflexes (e.g. from alcohol, drugs or certain medications)
- q. if the subject is located in water, mud, or marsh environment if the ability to move is restricted
- r. if a suspect is fleeing on foot.

2. CUMULATIVE EFFECTS OF ECW DEPLOYMENT. Officers are prohibited from using more than three cycles or 15 total seconds of an ECW against a subject during a single incident. Repeated, prolonged or continuous ECW applications may contribute to the cumulative exhaustion, stress, cardiac, physiologic, metabolic, respiratory, and associated risks which could increase the risk of death or serious injury. In a physiologically or metabolically compromised person, any physiologic or metabolic change may cause or contribute to sudden death. Individuals particularly susceptible to the effects of ECW use include:

- a) a) the elderly
- b) b) those with a heart condition
- c) c) those with asthma or other pulmonary conditions
- d) d) people suffering from excited delirium
- e) e) people suffering from profound agitation
- f) f) people suffering from severe exhaustion
- g) g) people suffering from drug intoxication or chronic drug use
- h) h) people suffering from over-exertion from physical struggle
- i) i) people suffering from over-exertion from physical struggle

4. Excited Delirium Assessment

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Comment [CS26]: See Taser International's Warning (May 19, 2017), pp.1-3.

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a. Excited Delirium is a state of extreme mental and physiological excitement characterized by acute paranoia, aggression, bizarre and violent behavior, extraordinary strength, hyperactivity, hyperthermia (overheating, often accompanied by removal of clothing), imperviousness to pain, incoherent shouting, panic and profuse sweating.

b. Excited Delirium has been associated with persons suffering from psychiatric illness (particularly bipolar schizophrenia), persons who are chronic illegal stimulant substance abuse users (cocaine, methamphetamines), and persons suffering from a combination of mental illness and substance abuse.

c. Individuals experiencing excited delirium are in need of immediate medical treatment. Excited delirium is a medical emergency with death as a common consequence.

d. When responding to calls indicating possible excited delirium, before ECW activation, officer shall:

- 1) request additional officers
- 2) request medical units

4. Muscle Contraction or Strain-Related Injury: ECWs in probe-deployment mode can cause muscle contractions that may result in injury, including bone fractures.

5. Higher Risk Populations: ECW use on a pregnant, infirm, elderly, low body-mass index person, individuals in mental health crisis, or small child could increase the risk of death or serious injury. ECW use has not been scientifically tested on many of these higher risk populations.

6. Secondary Injury: The loss of control resulting from an ECW exposure may result in injuries due to a fall or other uncontrolled movement. When possible, avoid using an ECW when secondary injuries are likely. Loss of control associated with ECWs can have several causes:

- a) Seizures: Repetitive stimuli (e.g. flashing light or electrical stimuli) can induce seizure in some people, which may result in death or serious injury.
- b) Fainting: a person may experience an exaggerated response to ECW exposure or threatened exposure, which may result in fainting or falling.
- c) Muscle Contraction, Incapacitation or Startled Response: ECW may cause loss of control from muscle contractions, incapacitation, or startled response.

7. CEDECWs shall not be used on handcuffed or restrained persons unless the subject is causing bodily harm to an officer or another or immediately capable of doing do and displaying an overtly assaultive or violently resistive behavior and lesser means have been tried and failed or would be ineffective.

8. Once a subject is taken into custody, restrained or searched, an officer shall place the subject in a face up (supine) or seated position to assist breathing. Officers shall avoid placing a subject in a face down restraint position for extended periods of time.

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Comment [MS27]: The definition and warnings are from Oakland Police Department's Training Building on "Use of an Electronic Control Weapon" (July 12, 2009), pages 12-13.

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Comment [CS28]: See Taser International's Warning, May 19, 2017, page 3.

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Comment [CS29]: See Taser International's Warning, May 19, 2017, page 3.

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Comment [CS30]: See Taser International's Warning, May 19, 2017, pages 3-4.

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9. An ineffective ECW deployment could increase the risk of death or serious injury to the member, the subject or others. If the ECW does not operate as intended or if the subject is not incapacitated, disengage, redeploy the ECW, or use other force options in accordance with DGO 5.01.

Comment [MS(31): See Taser International's Warnings that states that an ineffective ECW could increase the risk of death or serious bodily injury. (Taser Handheld ECW Warnings, Instructions, and Information: Law Enforcement, May 19, 2017, page 5.)

- I. PROHIBITED USE. Officers are prohibited from using the CEDECW:
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 imminent threat of physical harm to the public or officers. Flight will never be the sole reason for applying an CEDECW 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. to rouse unconscious, impaired or intoxicated subjects;
 7. subjects who are handcuffed or otherwise restrained, or
 7. if the CEDECW is or has been submerged in water or other liquid

Comment [MS(32): In its 2016 proposed Bureau Order, SFPD prohibited the use of an ECW on "[s]ubjects who are handcuffed or otherwise restrained." (Special Operations Bureau Order on Conducted Energy Devices (III)(F)(8).

- J. OFFICER REQUIREMENTS AFTER ACTIVATIONS. As soon as feasible following a CEDECW activation, officers shall:
1. contact the Department of Emergency Management (DEM) and request emergency medical personnel respond to the scene of the CEDECW activation;
 2. notify a supervisor of all CEDECW activations, including all unintentional activations and drive stun activations;
 3. collect confetti tags and book into evidence;
 4. collect expended cartridge(s), along with probes and wires, and book into evidence. 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.

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

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- K. 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.

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

L. DUTY TO PROVIDE MEDICAL ASSESSMENT.

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1. Officers shall arrange for a medical assessment and removal of CEDECW probes from a person's body by emergency medical personnel.

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 supervisors of any breathing difficulties or any other physical and/or mental state changes.

4. Members shall advise emergency medical personnel that a CEDECW 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., face, eyes, neck, breast and groin).

5. Members shall give the approximate time of the CEDECW use on the subject to emergency medical personnel.

~~6. Members shall advise medical personnel if excited delirium is suspected.~~

M. DUTY TO PROVIDE MEDICAL EVALUATION. All subjects who have been struck by CEDECW 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 emergency medical personnel do not transport the subject, officers shall transport the subject to a local medical facility.

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 deployment of the CEDECW.

The subject should be placed in a face up (supine) or seated position to assist breathing. Face down restraint positions for extended periods of time shall be avoided.

N. BOOKING OF SUSPECT. Anyone who has been struck by CEDECW 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 CEDECW on the field arrest card on any subject who has been struck by CEDECW probes or who has been subjected to the electric discharge of the device.

O. DOCUMENTATION REQUIREMENTS. Officers shall document all ~~CEDECW~~ deployments and activations, including all unintentional activations; drive stun activations; and displaying the arc in the ~~CEDECW~~ 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 (~~all levels of aggression~~) necessitating the use of the ~~CEDECW~~, including any weapon displayed by the subject;
3. Identifying and descriptive information of the suspect including weight, height, age, membership in at-risk population, race, ethnicity, gender;
4. Subject's known or suspected drug use, intoxication, mental health and other medical problems;
5. Identifying and descriptive information of officer(s) deploying the ECW;
6. Witness officers;
7. Civilian witnesses
8. De-escalation techniques used by the officer(s);
9. Whether the officer used other force options;
10. The type and brand of ~~CEDECW~~ and cartridge serial number;
11. Whether the ECW was displayed (weapon and the arc) and if the display of the weapon or the arc alone gained compliance;
12. Whether officers also displayed their firearm or an Extended Range Impact Weapon when the ECW was displayed;
12. Whether the ECW was deployed ~~ment~~ and deployment gained compliance;
13. The number of ~~CEDECW~~ activations;
14. The duration of each ECW cycle, the duration between cycles, and the duration that the subject was actually shocked;
15. The distance between the officer and the subject when the officer deployed the ECW~~between;~~
~~the officer and the subject when the officer deployed the CED~~
16. The type of crime/incident the subject was involved in;
17. The type of clothing the subject wore;
18. Location of any probe impact;
19. Description of where missed probes went;
20. Description of ECW failure (weapon failure, subject refused to comply, distance too great etc.
21. Information about the medical care provided the subject;
22. Whether the subject sustained any injuries;
23. Whether any officers sustained any injuries;
24. All supervisory notifications required by DGO 5.01, Use of Force.
25. Test results for the weapon's operability and electrical output;
26. Terrain and weather conditions during ECW use;
27. The type of mode used (display only, red-dot compliance, incapacitation, pain compliance, or combination thereof);
28. The toxicology test results
29. The results of any medical evaluation conducted;

30. The purpose of the discharge and how or if the discharge complied with the Department's Use of Force standards

The Commanding Officer of the Tactical Company shall route a copy of all incident reports and the supervisor's Use of Force form required by DGO 5.01 to the ECW Coordinator who ~~Officers at the Police Academy Physical Techniques and Defensive Tactics staff~~ shall analyze all incident reports involving ~~CEDECW~~ use, upon receipt, to identify trends, including deterrence and effectiveness.

P. SUPERVISOR RESPONSIBILITIES. Supervisors shall respond to calls when they reasonably believe there is a likelihood the ECW may be used.

1. A supervisor shall respond to all incidents where the ECW was activated, including negligent or unintentional activations. When an ECW has been activated, a supervisor shall follow the protocol outlined in DGO 5.01, Section VII, Section B. 2.

2. Upon arrival at the scene, the supervisor shall:

~~O. When an CED has been activated, a supervisor shall follow the protocol outlined in DGO 5.01, Section VII, Section B. 2. In addition, supervisors shall:~~

- ~~a) 1-~~ Confirm that any probes that have pierced the subject's skin are removed by medical personnel;
- ~~b) 2-~~ Ensure that photographs of probe sites are taken;
- ~~c) Ensure that all evidence is photographed, collected and properly booked~~
- ~~d) 3-~~ Ensure that the subject is medically evaluated prior to being booked into any facility;
- ~~e) 4-~~ Ensure that the ~~CEDECW~~'s memory record has been uploaded;
- ~~f) review all incident reports and written statements and~~
- ~~g) 5-~~ Provide replacement ~~CEDECW~~ cartridges to the officer, as necessary
- ~~h) complete and submit the Supervisor Use of Force Evaluation Form; and~~
- ~~i) enter the incident into the Use of Force Log and attach one copy of the incident report~~

Q. EXTERNAL INVESTIGATION: SFPD shall immediately notify the Department of Police Accountability to conduct an investigation in the following circumstances:

- 1. A subject is seriously injured or dies after an ECW deployment
- 2. An officer deploys an ECW multiple times or for a duration exceeding the policy standards
- 3. The ECW was used in a high-risk situation (e.g. elevated area, in water)
- 4. The ECW was used against a person from a heightened-risk population.
- 5. The ECW use indicates a substantial deviation from training or policy

R. ECW Coordinator:

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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:

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

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

The ECW Coordinator may designate Department ECW instructors or sergeants to download ECWs to facilitate investigations and reporting requirements.

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

- The ECW Coordinator shall review every ECW activation, including evaluating the reasonableness of the officer's actions, 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

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populations or high risk groups, and recommending training and policy changes to enhance public and officer safety.

- 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.
- 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

- The ECW Coordinator is responsible for issuing and maintaining the Department's ECWs and cartridges
- 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
- 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.

R. ECW Review Board: On a quarterly basis, the ECW Review Board will meet and review every incident involving ECW deployment.

1. The ECW Review Board will include the Police Chief's designee, the Deputy Chief in charge of Risk Management, the Officer-in-charge of the Police Academy, the ECW Coordinator, a Police Commissioner, the Department of Police Accountability's Executive Director or designee, and a community member(s).

2. The ECW Board shall analyze the incident involving ECW deployments to include the circumstances and performance of Department members during and proximate to the event, including force options and tactics and decision making, the member's compliance with Department policy or procedure revision, the justification for the original encounter, detention or arrest, and policy and training recommendations arising from the incident.

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

T. TRAINING.

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1. The ECW Coordinator shall develop ECW training curriculum.
 2. Initial training and re-certification shall require officers to demonstrate a high level of proficiency and include written testing, performance based testing that is scenario based.
 3. Any officer who has not carried the CEDECW as a part of his or her assignment for a period of six months or more shall be recertified by a Department-approved CEDECW instructor before carrying or using the device.
 4. Proficiency training for officers who have been issued CEDECWs 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 CEDECW instructors.
 5. All training and proficiency for CEDECWs will be documented in the officer's training file.
- ~~Commissioned Officers have the option to carry an CE6. D.~~ Officers who supervise or conduct Use of Force evaluations involving CEDECWs shall receive the Department-approved CEDECW training regardless of whether they carry an CEDECW.
7. ~~The ECW Coordinator-Commanding Officer of the Training Division~~ is responsible for ensuring that all officers who carry CEDECWs have received initial and annual proficiency training.
 8. ~~-~~Volunteering for CEDECW application during training shall not be mandatory for certification.
 9. The ECW Coordinator ~~and the Commanding Officer of the Training Academy~~ shall ensure that all training includes:
 1. A review of this Department General Order;
 2. A review of DGO 5.01;
 3. A review of DGO 5.21;
 4. A review of DGO 5.20
 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, neck, chest and groin;
 6. Handcuffing a subject during the application of the CEDECW
 7. ~~Tand~~ transitioning from ECW 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 CEDECW.

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U. Medical Examinations: When a death occurs in temporal proximity to an ECW discharge, the Department shall request the Medical Examiner to specifically indicate whether the use of the ECW may have or did contribute to the death. The Department shall request the Medical Examiner to explain in the autopsy and death certification the symptoms and evidence that demonstrates whether or not the ECW discharge contributed or caused the death. In cases involving evidence of “excited delirium” the Department shall request the Medical Examiner to not use the conclusion “excited delirium” but rather explain the impact or potential impact of ECW and the cluster of symptoms that lead to the finding of “excited delirium.”

V. Any use of the ECW contrary to this policy can result in the revocation of the member’s authorization to use such weapon and may subject the member or supervisor to disciplinary action and criminal and civil liability.

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Page 1: [1] Comment [2] Marion, Samara (OCC) 7/2/2017 11:10:00 PM

The Department of Police Accountability recommends that consistent with the Police Executive Research Forum, International Association of Chiefs of Police, and several other law enforcement agencies, the term Electronic Control Weapons be used to describe the weapon commonly known as a "Taser" that uses electricity to override an individual's central nervous system causing temporary incapacitation. In 2010, the Police Executive Research Forum announced that it would no longer use the term "Conducted Energy Devices (CED)" and instead would use the term "Electronic Control Weapons." Concerning its switch to "Electronic Control Weapons" with the release of its new guidelines, PERF explained that ECW is a "term already used by some organizations, in order to reflect the growing awareness that these tools are not harmless and that they are in fact weapons." (See PERF Newsletter "Subject to Debate," August 2010, page one; also PERF's 2011 Electronic Controlled Weapons Guidelines, page 3.) Similar to PERF, the International Association of Chiefs of Police (IACP) uses the term Electronic Control Weapons throughout its 2010 model ECW policy. Law enforcement agencies that call tasers "weapons" include Oakland Police Department (Electronic Control Weapon), Seattle Police Department (Conducted Electrical Weapon), Memphis Police Department (Conducted Electronic Weapon) and Bart Police (Conducted Electronic Weapon).

Page 1: [2] Comment [3] Marion, Samara (OCC) 7/3/2017 1:15:00 AM

SFPD proposed this provision in its Special Operations Bureau Order on Conducted Energy Devices (05/30/16), Section A, Versions 1 and 2. "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 shall not be used on a subject armed with a firearm." The Department used the term "Conducted Energy Device" in its 2016 proposal which, for consistency, has been changed to "Electronic Control Weapon" in this draft.

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Page 1: [4] Comment [MS(6) Marion, Samara (OCC) 7/6/2017 6:06:00 AM

SFPD proposed this language in its Special Operations Bureau Order on Conducted Energy Devices (05/30/16), Section B, Versions 1 & 2

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Page 1: [6] Comment [7] Marion, Samara (OCC) 7/3/2017 1:28:00 AM

In 2016 SFPD proposed a taser policy to permit Tactical Company or Specialists to use ECWs when an individual armed with a weapon other than a firearm, such as an edged weapon or blunt object, posed an imminent threat to the safety of the public or officer. See Special Operations Bureau Order on Conducted Energy Devices (05/30/16), Section III (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 imminent threat to the safety of the public or officers." SFPD's current proposal significantly expands the circumstances in which ECWs could be deployed and lowers the threshold for ECW deployment.

The current proposal provides ECWs to all officers instead of phasing in and evaluating the use of ECWS to monitor the goals and objectives of the program and to identify and remedy any training or program deficiencies.

Page 2: [7] Comment [8] Marion, Samara (OCC) 7/3/2017 2:56:00 AM

SFPD proposed Special Operations Bureau Order on Conducted Energy Devices, Versions 1 and 2, III (A) (05/30/16) in which officers assigned to the Tactical Company or the Specialist Team would be provided ECWs. The Maryland Attorney General's Task Force on Electronic Weapons concluded that the success of adopting ECWs depends in significant part on whether the law enforcement agency has carefully researched and evaluated the impact of using ECWS, and whether it has involved the community in this process. It emphasized that an ECW program is complex and requires a great deal of management oversight and thus phasing in the use of ECWs is beneficial. It also stated cautioned that "[n]to all law enforcement personnel should necessarily be permitted to use ECWs. During a pilot period in particular, agencies may benefit from issuing ECWs only to officers they have identified as having developed positive reputations within their communities and having a particularly strong history of good judgment. Any personnel selected to carry ECWs should be required to meet several criteria to ensure the weapon will be used safely and with restraint. Factors that should be considered include the officer's tenure, performance ratings, training background, demonstrated judgement skills, and complaint and disciplinary record, including previous uses of force. Properly selecting which officers will carry ECWs encourages the appropriate effective use of the weapon." Report of the Maryland Attorney General's Task Force on Electronic Weapons (December 2009), page 20.

Page 2: [8] Comment [MS(9) Marion, Samara (OCC) 7/6/2017 6:29:00 PM

See Braidwood Commission's Report on Conducted Energy Weapon Use, Executive Summary and Recommendations, page 19.

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Page 2: [12] Comment [MS(10) Marion, Samara (OCC) 7/6/2017 3:02:00 PM

In *Armstrong v. Village of Pinehurst* (4th Cir.2016) 8120 F.3d 892, the Court concluded that "a police officer may only use serious injurious force, like a taser, when an objectively reasonable officer would conclude that the circumstances present a risk of immediate danger that could be mitigated by the use of force. At bottom, 'physical resistance' is not synonymous with 'risk of immediate danger.'"

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