

BUREAU ORDER

UNIT
INDEX
NUMBER

DRAFT

DATE
ISSUED

03/21/16

SUBJECT:

Conducted Energy Devices

ISSUED
TO:

Special Operations Bureau

ISSUED
BY:

Commented [sfpd1]: See corresponding comment #1

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 communication and de-escalation principles before resorting to the use of 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 unreasonable force. These are key factors in maintaining legitimacy with the community and safeguarding the public's trust.

Commented [sfpd2]: See corresponding comment #2

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

Commented [sfpd3]: See corresponding comment #3

- 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.
- 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. Further, officers are reminded to consider the principles outlined in DGO 5.01, I.A. Sanctity of Human Life, I.B. Establish Communication, I.C. De-escalation, I.D. Proportionality, and I.E. Duty to Intervene, to decisions about the use of lethal force.

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. CEDS are not normally considered to be a lethal weapon but the risk of adverse effects can be higher for some subjects. See III. F.1. and H.
- C. **DEPLOYMENT.** Removal of the CED from the holster and pointing it at a subject.

Commented [sfpd4]: See corresponding comment #4

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- 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.

Commented [sfpd5]: See corresponding comment #5

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. Officers 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.

Commented [sfpd6]: See corresponding comment #6

- C. VERBAL AND VISUAL WARNINGS.** Officers shall provide a verbal warning prior to activating the CED, if feasible, to:
1. Announce a warning to the subject and other officers of the intent to activate the CED if the subject does not comply with an officer's command; and

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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 activating 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:
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 or officers,
 2. Aggressive or violent and poses an imminent threat of injury to the safety of the public or officers.

- 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.

Commented [SFPD7]: See corresponding comment #7

- F. PROHIBITED USE.** Officers are prohibited from using the CED:
1. Unless the subject is armed with a firearm, on the following subjects:
 - a. On a subject who is only a danger to him/herself;
 - b. Female who is known or appears to be 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. Department-issued OC spray is not flammable.
 3. To prevent a subject from destroying evidence, such as placing evidence in his/her mouth;

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4. To psychologically torment, punish or inflict undue pain on a 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.

Commented [sfpd8]: See corresponding comment #8

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. 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.

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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 activations, 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 and 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;

Commented [sfpd9]: See corresponding comment #9

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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

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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, pointing 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.

IV. EXCEPTIONAL CIRCUMSTANCES. If exceptional circumstances occur, an officer's use of force shall be reasonably necessary to protect others or him/herself. The officer shall articulate the reasons for employing such use of force.

Commented [SFPD10]: See corresponding comment #10

Updated Stakeholder Comments as of 05/02/16 regrading Special Operations Bureau Order, Conducted Energy Devices (03/21/16 draft date)

1. OCC, SFBAR, and Public Defender state CEDs should be taken out as a force option and discussed at a later time. As such, these agencies have not provided recommendations about the CED policy. However, each agency was clear that a lack of recommendations from it group was not to be taken as support or opposition to CEDs as a force option, at this time.

COH is opposed to CEDs as force option now and at a later time. COH has submitted written response that states the vertical support for CIT within the Department has not been implemented, has not been operationalized and the team has not been formed, and COH feels the program needs to be in place before CEDs are considered. COH also states the deaths and injuries that can result from CEDs as a reason for not implementing them. However, COH did provide some recommendations for the CED policy.

ACLU is opposed to the addition of CED's as a force option. The addition of this weapon that can cause death or serious injury is inconsistent with the changes in the General Orders that emphasize de-escalation, time and distance, and use of minimal force necessary. The recent officer-involved shooting deaths of Mario Woods and Luis Gongora raise at the least serious questions as to whether these principles of de-escalation and time and distance and minimal use of force are being adhered to by SFPD officers. It would be irresponsible for CED's to be added to the force options when the Early Intervention System (EIS) is clearly not functioning as intended and there is a serious lack of transparency with respect to comprehensive use of force data reports.

CIT working group and SFDA/BRP take no position on CEDs as a force option. However, CIT did provide some recommendations for the CED policy. SFDA/BRP submitted suggested edits to the CED policy but has not stated if the submissions indicates a change in their position on CEDs.

Refer to SFBAR 02/29/16 letter, page 12

Refer to SFBAR 03/21/16 email

Refer to SFBAR 04/06/16 letter, pages 1 and 2, and item 2 of attachment

Refer to OCC 02/29/16 letter, item D, page 8

Refer to Public Defender 03/21/16 email

Refer to ACLU 02/29/16 letter, intro and item B, pages 2-3

Refer to ACLU 05/02/16 email attachment

Refer to COH 02/23/16 letter, item 1, page 1

Refer to COH 01/05/16 entire letter and attachment

POA, OFJ, Pride Alliance, LPOA, and APOA are in favor of CEDs as a force option and would like the policy expanded to include all members of patrol.

Refer to POA 02/22/16 letter, pages 7--8

Refer to POA letter 02/29/16, item 23, pages 17-20

Refer to POA submitted CED draft policy

2. SFPD will incorporate this language once the DGO on CIT is adopted and the term “crisis intervention” is defined. At this point the DGO is pending.
3. POA recommends the Department use its submitted CED draft policy. The POA is concerned that the Department’s policy is too limited in its authorized uses.

Refer to POA letter 02/29/16, item 23, pages 17-20

4. COH recommends this sentence include stronger language as proposes either: 1) “CEDs are sometimes lethal weapons, and the risk of adverse effects can be higher for some subjects,” or 2) CEDs have caused some fatalities and the risk of adverse effects can be higher on some subjects.” COH believes the policy should be transparent to officers and the public that CEDS can be lethal.
5. POA, OFJ, LPOA, Pride Alliance, and APOA recommend CEDs for all members of patrol. COH is opposed to all members of patrol having CEDs.

Refer to POA letter 02/29/16, item 25, pages 18

6. CIT working group recommends having more information about AED training in this policy.
7. COH wants the policy to mention that homeless individuals and people on medication are some of the people who may have an adverse reaction to having the CED used on them. The weapons are not safe for use on elderly individuals, and recent UCSF study puts homeless people at 25 years advanced age than their actual birth age. Homeless people, due to living outdoors, frequently have compromised health which also puts them at risk.
8. POA questions why officers cannot use the CED in the drive-stun mode, which is considered a lesser use of force than deploying the probes.

Refer to POA letter 02/29/16, item 29, pages 19

9. POA, OFJ, APOA, LPOA and Pride Alliance recommend better defining when deployments and activations are determined to be a use of force.
10. POA, OFJ, APOA, LPOA and Pride Alliance want this language to remain and moved to the beginning of the policy.

Refer to POA Subject Matter Expert letter 02/29/16, item I, page 10

Refer to POA 02/29/16 letter, item 15, pages 12-13

Refer to POA Subject Matter Expert letter 02/27/16, item 2, page 5
Refer to POA 05/02/16 letter on DGO 5.01, item IV, pages 21-22