

Conducted Energy Device

308.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy devices (CEDs). This policy does not apply to the KCSO Corrections Division. Corrections Officers should consult the Kitsap County Sheriff's Office Custody Manual Conducted Energy Device policy.

308.1.1 DEFINITIONS

Definitions related to this policy include (Washington State Office of the Attorney General Model Use of Force Policy):

Conducted energy device - A portable device that fires darts/electrodes that transmit an electrical charge or current intended to temporarily immobilize a person.

308.2 POLICY

The CED is used in an attempt to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to deputies and suspects.

308.3 ISSUANCE AND CARRYING CED'S

Only members who have successfully completed office-approved training and have demonstrated satisfactory skill and proficiency may be issued and may carry the CED.

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the office's inventory.

Deputies shall only use the CED and cartridges/magazines that have been issued by the Office. Cartridges/magazines should not be used after the manufacturer's expiration date. Members who have been issued the CED shall wear the device in an approved holster on their person or secure the CED in the driver's compartment of their vehicle.

Members carrying the CED should perform a spark test on the unit prior to every shift.

When carrying while in uniform, deputies shall carry the CED in a weak-side holster on the side opposite the duty weapon.

- (a) All CEDs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) For single-shot devices, whenever practicable, deputies should carry an additional cartridge on their person when carrying the CED.
- (c) Deputies shall be responsible for ensuring that their issued CED is properly maintained and in good working order.
- (d) Deputies should not hold both a firearm and the CED at the same time.

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308.3.1 USER RESPONSIBILITIES

Deputies shall be responsible for ensuring that the issued CED is properly maintained and in good working order. This includes a function test and battery life monitoring, as required by the manufacturer, and should be completed prior to the beginning of the deputy's shift.

CEDs that are damaged or inoperative, or cartridges/magazines that are expired or damaged, shall be returned to the Quartermaster for disposition. Deputies shall submit documentation stating the reason for the return and how the CED or cartridge/magazine was damaged or became inoperative, if known.

308.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of deputies or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other deputies and individuals with a warning that the CED may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with a deputy's lawful orders and it appears both reasonable and feasible under the circumstances, the deputy may, but is not required to, activate any warning on the device, which may include display of the electrical arc, an audible warning, or the laser in a further attempt to gain compliance prior to the application of the CED. The laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the deputy deploying the CED in the related report.

308.5 USE OF THE CED

The CED has limitations and restrictions requiring consideration before its use. The CED should only be used when its operator can safely deploy the device within its operational range. Although the CED may be effective in controlling most individuals, deputies should be aware that the device may not achieve the intended results and be prepared with other options.

308.5.1 APPLICATION OF THE CED

The CED may be used when the circumstances reasonably perceived by the deputy at the time indicate that such application reasonably appears necessary to control a person who:

- (a) Is violent or is physically resisting.
- (b) Has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm deputies, themselves, or others.

Mere flight from a pursuing deputy, without additional circumstances or factors, is not good cause for the use of the CED to apprehend an individual.

The CED shall not be used to psychologically torment, to elicit statements, or to punish any individual.

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308.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CED on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the deputy, the subject, or others, and the deputy reasonably believes that the need to control the individual outweighs the potential risk of using the device. This includes (Washington State Office of the Attorney General Model Use of Force Policy):

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) In any environment where a deputy knows or has reason to believe that a potentially flammable, volatile, or explosive material is present that might be ignited by an open spark, including but not limited to OC spray with a volatile propellant, gasoline, natural gas, or propane.
- (f) Individuals who are situated on an elevated surface (e.g., a ledge, scaffold, near a precipice) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).
- (g) Individuals known to be located in water.
- (h) Operators in physical control of vehicles in motion, including automobiles, trucks, motorcycles, all-terrain vehicles, bicycles, and scooters unless deadly force is justified.

The primary use of a CED is not as a pain compliance tool. Drive-stun mode should only be used when necessary to complete the incapacitation circuit where only one probe has attached to the person, where both probes attached in close proximity, or when no other alternatives to deadly force are available and appropriate (Washington State Office of the Attorney General Model Use of Force Policy).

308.5.3 TARGETING CONSIDERATIONS

Recognizing that the dynamics of a situation and movement of the subject may affect target placement of probes, when practicable, deputies should attempt to target the back, lower center mass, and upper legs of the subject, and avoid intentionally targeting the head, neck, chest, or genitals. If circumstances result in one or more probes inadvertently striking an area outside of the preferred target zones, the individual should be closely monitored until examined by paramedics or other medical personnel.

308.5.4 MULTIPLE APPLICATIONS OF THE CED

Deputies shall apply the CED for only one standard cycle of five seconds or less and then evaluate the situation before applying any subsequent cycles (Washington State Office of the Attorney General Model Use of Force Policy). Once a deputy has successfully deployed two probes on the subject, the deputy shall continually assess the subject to determine if additional probe

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deployments or cycles reasonably appear necessary. Additional factors deputies may consider include but are not limited to:

- (a) Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- (b) Whether the probes are making proper contact.
- (c) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (d) Whether verbal commands or other options or tactics may be more effective.

Multiple applications of the CED increase the risk of serious bodily injury or death. Deputies should not intentionally deploy multiple CEDs at the same person, unless the first deployed CED clearly fails. A deputy shall consider other options if the deputy has used a CED three times against a person and the person continues to be a threat, as the CED may not be effective against that person.

Given that on certain devices (e.g., TASER 10™) each trigger pull deploys a single probe, the deputy must pull the trigger twice to deploy two probes to create the possibility of neuro-muscular incapacitation.

308.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Deputies should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, deputies shall notify a supervisor any time the CED has been discharged. The probes should be considered as "sharps" and disposed of properly. In cases where the use of force results in serious injury or death, a supervisor should be consulted about whether or not to retain the probes. When practical the expended cartridge, and wire, should be submitted into evidence (including confetti tags, when equipped on the device).

308.5.6 DANGEROUS ANIMALS

The CED may be deployed against an animal if the animal reasonably appears to pose an imminent threat to human safety.

308.5.7 OFF-DUTY CONSIDERATIONS

Deputies are not authorized to carry department CEDs while off-duty, unless acting in a law enforcement capacity. Any exceptions must be approved by a Division Chief in writing.

Deputies shall ensure that CEDs are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

308.6 DOCUMENTATION

Deputies shall document all CED discharges in the related arrest/crime report and the KCSO Use of Force Report Form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

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308.6.1 CED REPORT FORM

As applicable based on the device type, items that shall be included in the CED report form are:

- (a) The brand, model, and serial number of the CED and any cartridge/magazine.
- (b) Date, time, and location of the incident.
- (c) Whether any warning, display, laser, or arc deterred a subject and gained compliance.
- (d) The number of probes deployed, CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the CED was used.
- (f) The type of mode used (e.g., probe deployment, follow-up drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in follow-up drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any deputies sustained any injuries.

The Training Officer should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Officer should also conduct audits of CED device data downloaded to an approved location and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

308.6.2 REPORTS

The deputy should include the following in the arrest/crime report:

- (a) Identification of all personnel firing CEDs
- (b) Identification of all witnesses
- (c) Medical care provided to the subject
- (d) Observations of the subject's physical and physiological actions
- (e) Any known or suspected drug use, intoxication, or other medical problems

308.7 MEDICAL TREATMENT

At the earliest safe opportunity at a scene controlled by law enforcement, deputies trained in probe removal and handling shall remove CED probes, unless probes are in a sensitive area, such as the head, breast, or groin. Probes in sensitive areas shall be removed by an emergency medical technician (EMT), paramedic, or other health care professional (Washington State Office of the Attorney General Model Use of Force Policy). Used CED probes shall be treated as a sharps

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biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CED probes, who have been subjected to the electric discharge of the device, or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The CED probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called excited delirium), or who require a protracted physical encounter with multiple officers to be brought under control, may be at increased risk of sudden death and should be examined by qualified medical personnel as soon as possible.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another deputy and/or medical personnel and shall be fully documented in related reports. If an audio/video recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting deputy shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED (see the Medical Aid and Response Policy).

308.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood the CED may be used. A supervisor should respond to all incidents where the CED was activated if practicable.

A supervisor should review each incident where a person has been exposed to an activation of the CED. The device's onboard memory should be downloaded through the data port by a supervisor or Taser Instructor and attached/saved with the related use of force report. Photographs of probe sites should be taken and witnesses interviewed.

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308.9 TRAINING

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial office-approved training and demonstrating satisfactory skill and proficiency. Any personnel who have not carried the CED as a part of their assignment for a period of twelve months or more shall be recertified by a qualified CED instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued CEDs should occur every two years. A reassessment of a deputy's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for CEDs will be documented in the deputy's training file.

Command staff, supervisors, and investigators should receive CED training as appropriate for the investigations they conduct and review.

Deputies who do not carry CEDs should receive training that is sufficient to familiarize them with the device and with working with deputies who use the device.

The Training Officer is responsible for ensuring that all members who carry CEDs have received initial and biennial proficiency training. Periodic audits should be used for verification.

Application of CEDs during training could result in injury to personnel and should not be mandatory for certification.

The Training Officer should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing opposite/weak-hand draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, chest, and groin.
- (e) Scenario based training, including virtual reality training when available,
- (f) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (g) De-escalation techniques.
- (h) Restraint techniques that do not impair respiration following the application of the CED.
- (i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of CED's.