

# Conducted Energy Device

## 304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of the conducted energy device (CED).

## 304.2 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 officers and suspects.

## 304.3 ISSUANCE AND CARRYING CEDS

Only personnel who have successfully completed Department-approved training may be issued and may carry the CED. The current CED issued to personnel is the Taser 10.

The Rangemaster should keep a log of issued CED devices and the serial numbers of cartridges/magazines issued to personnel.

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 Department inventory.

Officers shall only use the CED and cartridges/magazines that have been issued by the Department.

If replacement cartridges are needed following a CED deployment, personnel should contact the Range Master to be assigned additional cartridges. If the Range Master is not available or there is an insufficient number of cartridges for immediate field use, the Watch Commander may temporarily issue a designated spare cartridge to the member until they can obtain replacement cartridges for their assigned magazine.

Cartridges/magazines should not be used after the manufacturer's expiration date.

Uniformed officers who have been issued the CED shall wear the device in an approved holster.

Officers who carry the CED while in uniform shall carry it in a holster mounted to their equipment belt or load bearing vest on the side opposite of their duty weapon (Penal Code § 13660).

- (a) All CEDs shall be clearly distinguishable to differentiate them from the duty weapon and any other device.
- (b) Officers should not hold a firearm and the CED at the same time.

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

## 304.4 CED DEPLOYMENT-JAIL

CEDs are permitted to be carried in the jail facility. If possible, a supervisor should be called to the jail prior to deployment of the CED. If it becomes necessary to utilize the CED and no supervisor

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is present, the Watch Commander shall be notified immediately after control of the arrestee is regained.

### **304.5 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the TASER should precede its application, unless it would otherwise endanger the safety of the Department member(s) or when it is not feasible due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply with an officer's lawful order.
- (b) Provide a Department member with an opportunity to potentially de-escalate a violent confrontation.
- (c) Provide other officers and individuals with a warning that the CED may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with a sworn officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, activate the "Warning Alert" to attempt to gain compliance prior to the deployment of the CED.

The laser on the CED may also be used in a further attempt to gain compliance prior to the deployment of the CED. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair their vision.

The fact that a verbal warning was given or the reasons it was not given shall be documented by the member deploying the CED in the related report. Regardless of whether a member deploys the CED or not, when a member points the laser of the CED at a person or uses a "Warning Alert," then the member shall document the display of force in the related report consistent with the Use of Force policy.

### **304.6 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 approach the subject within the operational range of the weapon. Although the CED is generally effective in controlling most individuals, members should be alert to the potential for failure and be prepared with other options.

#### **304.6.1 DEFINITIONS**

**Actively Aggressive-** A person presents an overt threat of assault through physical or verbal means, coupled with present ability, opportunity, and apparent intent to immediately cause injury to the officer(s) or another person(s).

**Actively Resisting –** A person undertakes physically evasive movements to defeat an officer's attempt at control; these movements may include bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody.

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**Passive Resistance** - A person whose physical actions prevent an officer's attempt to control them; for example, a person who goes limp, is in a prone position, or who is engaged in passive demonstration.

#### 304.6.2 APPLICATION OF THE CED - SWORN OFFICERS

The CED may be used in any of the following circumstances, when the circumstances perceived by the sworn officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent, actively aggressive, and poses an immediate threat to the safety of officer(s) or others.
- (b) The subject has, by words or actions, demonstrated an intention to be violent or to physically resist, and reasonably appears to pose an immediate threat to the safety of officer(s) or others.
  - (a) When practical, the officer should give a verbal warning of the intended use of the CED followed by giving the person a reasonable opportunity to voluntarily comply.
  - (b) The officer must be able to articulate a reasonable belief that other available options appeared ineffective, impractical, or would have presented a greater danger to the officer, the subject, or others.
- (c) Absent meeting the conditions set forth in (a) or (b) above, or a reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from a pursuing officer, shall not serve as good cause for the use of the CED device to apprehend an individual.
- (d) Additionally, the CED is not to be deployed for the purpose of overcoming passive resistance, to gain compliance or cooperation, or to elicit a statement.
- (e) Members shall continue to reassess the totality of the circumstances to determine whether the application of the CED is reasonable, necessary, and proportional to the suspected offense or the reasonably perceived level of actual or threatened resistance (refer to policy 304.6.4 Factors to Determine the Reasonableness of Force).
- (f) When applicable and when there is no compromise of safety for the officers or others, force de-escalation techniques are to be utilized.

#### 304.6.3 APPLICATION OF THE CED- CIVILIAN MEMBERS

In accordance with existing law, a civilian member of the Department may use force as reasonably appears necessary to defend themselves or others against an apparent threat of unlawful and immediate violence from another. In such circumstances, the person must reasonably believe that their use of force was necessary to prevent immediate, unlawful physical harm to themselves or others.

#### 304.6.4 FACTORS TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a sworn officer has used reasonable force, a number of factors should be taken into consideration, as time

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and circumstances permit (Government Code § 7286(b)). These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

#### 304.6.5 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 officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the weapon. These special considerations include:

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- (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) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g. falls from height such as staircases and balconies, operating vehicles).

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

#### 304.6.6 TARGETING CONSIDERATIONS

While manufacturers generally recommend that reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin, and while officers should comply with this recommendation, it is recognized the dynamics of a situation or officer safety may not permit the officer to limit the deployment of the CED cartridges to a precise target area. As such, officers should monitor the condition of the subject if one or more cartridges strikes the head, neck, chest or groin until the subject is examined by paramedics and/or other medical personnel.

#### 304.6.7 MULTIPLE APPLICATIONS OF THE CED

If the initial deployment from the CED to obtain Neuromuscular Incapacitation (NMI) appears to be ineffective in gaining control of an individual, the officer should consider certain factors before additional applications of the CED, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the application of the CED is interfering with the ability of the individual to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.
- (d) Officers should avoid applying more than one CED at a time against a single person, unless the officer reasonable believes the CED is ineffective for the following, but not limited to:
  - 1. CED malfunction
  - 2. The probes have not made proper contact
  - 3. The spread is too narrow
  - 4. The person breaks the CED wires

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- (e) Officers should generally not apply the CED beyond three standard (five-second) cycles (a total of 15 seconds of total exposure). This, however, shall not preclude any officer from deploying multiple, reasonable applications of the CED on a person in accordance with policy 304.6. 4 Factors to Determine Reasonableness.

#### **304.6.8 DANGEROUS ANIMALS**

The CED may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

#### **304.7 MEDICAL TREATMENT**

All persons who have been struck by CED probes or who have been subjected to the electric discharge of the device shall be transported to the hospital and 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.
- (f) The person who exhibits 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 requires protracted physical encounter with multiple officers to be brought under control.

Consistent with local medical personnel protocols and absent extenuating circumstances, only qualified medical personnel shall remove CED probes from a person's body. Used CED probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

If while at the hospital the individual refused medical treatment, the refusal should be witnessed by another officer and qualified medical personnel from the hospital, and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CED.

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### **304.9 REPORT OF USE**

All CED applications shall be documented in the related arrest/crime report, the TASER Deployment Report form and notification made to a supervisor in compliance with Department policy.

Unintentional discharges of a CED cartridge will also be documented on the TASER Deployment Report form. Any report documenting the discharge of a CED cartridge will include an explanation of the circumstances surrounding the discharge.

A supervisor shall be notified of a direct display of force involving the CED. Appropriate report and/or forms shall be completed. Refer to § 300 - Use of Force.

#### **304.9.1 PROTOCOL**

The following protocol shall be followed after the deployment of the CED:

##### **Photographic Evidence:**

- (a) Photographs of dart placement on the suspect with visual reference of dart spread in inches.
- (b) Photographs of injuries to suspects and officers. Lack of injuries shall also be documented in photographs.

##### **Evidence Recovery:**

- (a) Before transporting the subject, separate the wire from the darts, leaving three feet of wire. Wires are not to be wound around any object. Place the darts and loose wires into the adjustable syringe vial.
- (b) Place the cartridge and remaining wires into an evidence envelope. Do not wind the wires around an object; place the wires into the envelope loosely.
- (c) If the CED was from a Taser 10, the user shall remove and dock the battery for the data downloading in accordance with the manufacturer's instructions and Department training.

#### **304.9.2 REPORT DISTRIBUTION**

The member who deployed the TASER shall complete the Santa Monica Police Department TASER Deployment Report form. The involved member's sworn supervisor shall complete an entry in the use of force reporting system in accordance with policy 300.15 Supervisor Responsibility. The reports will be distributed as follows:

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- (a) The original TASER Deployment Report shall be forwarded to the Operations Division Commander for cursory review of appropriate tactics and/or any associated training issues. Any appropriate remedial action related to tactics, training issues, and/or equipment will be taken within 10 business days from the date of the incident.
- (b) Copies of the report will be forwarded to the Deputy Chief for formal review by the Incident Review Board.

#### **304.10 STORAGE**

When a Department-issued CED is not on the member's equipment belt or load bearing vest or otherwise secured in the member's locker, Department-assigned locker, or the trunk of a Department-assigned vehicle, it shall not be left unattended. CEDs shall not be taken home, nor transported in the personal vehicles of employees unless in transit to a Department-approved training location or part of other emergency response equipment such as Department- assigned SWAT gear.

Those Officers who regularly work off-site because of his/her current assignment (i.e., narcotics, FBI task force) or who are issued a Department vehicle because his/her current assignment requires them to be on-call, shall ensure that their CED is secured while in their homes, vehicles or any other area under control in a manner that will keep the device inaccessible to others.

#### **304.11 TRAINING**

Personnel who are authorized to carry the CED shall be permitted to do so only after successfully completing the initial Department-approved training. Any personnel who have not carried the CED as a part of their assignment for a period of six months or more shall be recertified by a Department-approved CED instructor prior to again carrying or using the weapon.

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

The Range Master is responsible for ensuring that all members who carry CEDs have received initial and annual proficiency training. Periodic audits shall be used for verification.

Exposures to CED deployments during training could result in injury to personnel and shall not be mandatory for certification. Voluntary exposures during training shall be conducted under the direct supervision of a Department-approved CED instructor, only after completing the appropriate waiver and implementation of designated safety procedures.