

CHAPTER 05:

Use of Force

SUBJECT:

Conducted Energy Device (CED)

ISSUE DATE:

9/18/2020

EFFECTIVE DATE:

9/18/2020

SUPERSEDES DATE:

02/21/2017

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I. PURPOSE

The purpose of this article is to establish department policy and procedures for the deployment and use of a conducted electrical device (CED).

II. POLICY

- A. It is the policy of this agency to use only that level of force that reasonably appears necessary to control or otherwise subdue violent or potentially violent individuals. CED's may be used by authorized and trained personnel in accordance with the guidelines and procedure set forth in this article and in chapter 05-1 Use of Force.
- B. A CED is a conducted energy device deployed as an additional less lethal police tool and is not intended to replace firearms or self-defense techniques. A CED may be used to control a dangerous or violent subject when deadly physical force does not appear to be justified and/or necessary; or attempts to subdue the subject by other conventional tactics have been, or will likely be, ineffective in the situation.
- C. A CED may also be used in situations where there is a reasonable expectation that it will be unsafe for officers to approach a person and take him or her into custody without the probability of injury to the officers or suspect.

III. DEFINITIONS

As used in this article, the following terms shall have the meanings indicated:

AFIDs -- Confetti-like pieces of paper that are expelled from the cartridge when fired. Each AFID contains an alphanumeric identifier unique to the specific cartridge used.

Conducted Electrical Device (CED) -- A device designed to disrupt a subject's central nervous system by means of deploying battery-powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

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Display – A CED, Safety off, pointed at a subject, shall be considered a display.

IV. PROCEDURE

A. Authorized users

1. Only officers who have satisfactorily completed this agency's approved training course shall be authorized to carry a CED.

B. Storage

1. All uniformed officers shall be issued a CED. Officers should take the CED with them during their assigned field duties. The CED should be transported either in a protective carrying case or in a department approved CED holster. A CED should not be carried or stored in any other manner to prevent unnecessary damage or an accidental discharge. Any unassigned CED's will be stored in a secured department locker.

C. CED readiness

1. Officers should take the CED with them during their assigned field duties. The device will be carried in an approved holster on the side of the body opposite the service handgun in a cross-draw manner. Officers not assigned to uniformed patrol may utilize other department-approved holsters and carry the device consistent with department training.
2. The device shall be carried fully armed with the safety on in preparation for immediate use when authorized.
3. Only properly functioning and charged CED's shall be deployed. Before each deployment, the CED should be inspected for damage and tested for a proper pulse rate (consistent with department training). Any damage or improper functioning must immediately be

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reported to his or her supervisor. The tour supervisor will prepare a report and forward to the Chief of Police or his or her designee. This report must include the CED's serial number, the damage or malfunction and the circumstances under which the damage or malfunction occurred. It is the Tour Supervisor's responsibility to ensure the CED and the cartridges are in proper working order and accounted for during each shift. The damaged CED will be placed in the desk gun locker for CED instructor inspection.

4. Officers authorized to use the device shall be issued a minimum of one spare cartridge as a backup in case of cartridge failure, the need for redeployment, or in case the first cartridge's leads break during engagement. The spare cartridges shall be stored and carried in a manner consistent with training, and the cartridges shall be replaced consistent with the manufacturer's expiration requirements.
5. Only manufacturer-approved battery-powered sources shall be used in a CED.
6. The CED's flashlight and LASER should both be set to "on" (consistent with Department Training) unless exigent circumstances exist i.e. Officer safety.

D. Deployment

1. The use of a CED is considered a use of force, and decisions to use the CED must be justified. As such, the device is prohibited from being used:
 - a. In a punitive or coercive manner.
 - b. On a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.

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- c. On any suspect who does not demonstrate an overt intention to use violence or force against the officer of another person.
 - d. In any environment where an officer knows that a potentially flammable, volatile or explosive material is present (including but not limited to OC spray with volatile propellant, gasoline, natural gas, or propane).
 - e. In any environment where the subject's fall could reasonably result in serious physical injury or death (such as an elevated structure).
2. As in all uses of force, certain individuals may be more susceptible to injury. Officers should be aware of the greater potential for injury when using a CED against children, the elderly, persons of small stature irrespective of age, or those who the officer has reason to believe are pregnant, or in obvious ill health.
3. Upon firing the device, the officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective.
4. The subject should be secured as soon as practical while disabled by a CED's power to minimize the number of deployment cycles. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
5. In preparation for firing, the CED shall be pointed in a safe direction, taken off safe, and then aimed. Center mass of the subject's back should be the primary target where reasonably possible; lower center mass of the chest or the legs are the secondary targets.

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6. Fixed sights should be used as the primary aiming device, and the laser dot as the secondary aiming device.
7. The device may also be used in certain circumstances and in accordance with departmental training, in a "drive stun" mode. This can be achieved with or without removing the cartridge by pressing the unit against an appropriate area of the body and depressing the trigger in accordance with departmental training. It is important to note that when the device is used in this manner it is:
 - a. Primarily a pain compliance tool due to a lack of probe spread.
 - b. Minimally effective when compared to conventional cartridge-type deployments.
 - c. More likely to leave marks on the subject's skin.
 - d. Subject to the same deployment (use) guidelines and restrictions as that of the CED cartridge deployments.
8. The CED shall be pointed at the ground in a safe direction with the safety on during loading, unloading, or when handled in other than an operational deployment.
9. No policy or guideline can anticipate every situation that officers might face, but in general terms officers may consider using the device when they can reasonably articulate grounds to arrest or detain a subject and the subject has demonstrated that he or she will likely use physical force to resist the arrest or detention or may otherwise assault or attempt to assault the officer, another person, or himself or herself.
10. Officers must consider the totality of the circumstances in every use of force situation to ensure that the best overall decision is made. Recognizing that time is generally not available to weigh all the circumstances surrounding a potential deployment, officers should, where possible, be aware of the following types of concerns that may affect deployment decisions:

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- a. Is there a need to immediately incapacitate the subject?
 - b. Is the subject wearing heavy clothing that may impede the effectiveness of the device?
 - c. Is he or she in a position that increases the risk of injury due to a fall, such as on a stairwell, next to a fire, near a busy roadway, standing in water, etc.?
 - d. Has the suspect been exposed to flammables such as gasoline, gunpowder, explosives, or alcohol-based pepper spray that may be ignited by a spark from the device?
 - e. How far away is the suspect?
 - f. Can an officer safely move close enough to effectively use the CED?
 - g. Do officers have a better option available to them under the circumstances?
 - h. Is the subject within the effective range of the device?
 - i. Is the subject actually or perceived to be mentally ill?
11. When the device has been used operationally, the officer shall collect the cartridge, wire leads, darts, and AFIDs and secure them as evidence in accordance with departmental training.

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E. Training

1. Officers must be properly trained before being issued and using a CED. The training provided should, at a minimum, address the following topics:
 - a. Design and functioning of each device.
 - b. Proper method of carry, use and activation of the device.
 - c. Proper method of storage and maintenance of the device.
 - d. Departmental policy concerning rules of use and engagement and the manner in which the device is carried and accessed.
2. Officers shall be recertified on an annual basis.

F. Specific operational considerations

1. A CED should only be pointed at a person when:
 - a. The officer reasonably believes that discharge, if it proves necessary, will be justified under the circumstances; and
 - b. The officer reasonably believes that the existing circumstances will require discharge of the device unless those circumstances change prior to actual discharge (such as by voluntary compliance of the subject)

G. Probe removal and medical attention.

1. The CED darts may be removed from the subject after the subject is restrained following procedures outlined in training.
2. Officers will not need to rely on the assistance of medical personnel and will remove probes in accordance with departmental training in most situations.

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3. The following persons should be transported to an emergency medical facility for treatment after exposure to a CED:
 - a. Any subject who requests medical attention; officers shall ask persons if they desire medical attention in all instances;
 - b. Subjects who are hit in a sensitive area (face, neck, throat, female breasts, male groin);
 - c. Subjects from whom officers have difficulty in removing the probes (i.e., probe/barb separation);
 - d. Subjects who do not appear to recover as expected.
 - e. Subjects who are in the potential susceptible population category as previously noted in section IV.D.2 of this policy;
 - f. Subjects who have been energized three times or more;
 - g. A subject who has had more than one CED effectively used against him or her in any given incident;
 - h. A subject who has been subjected to a continuous energy cycle of 15 seconds or more; or
 - i. A subject who has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to CED exposure.
4. Probes or darts, once removed, should be placed in suitable containers in accordance with departmental training.
5. Photographs of the affected area should be taken after the darts are removed and attached to the report in the department RMS.

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H. Reporting.

1. A use of force report will be completed whenever a CED is displayed or discharged, whether it be a "drive stun" or probe deployment. If the use of force is a display only, only the displaying officer will be required to complete a DF-99.
2. The deploying officer shall notify his or her supervisor as soon as practical after using the device and complete the appropriate use-of-force report.
3. Officers shall specifically articulate the rationale in their use-of-force report for any instance in which:
 - a. A CED is energized more than three times;
 - b. An energy cycle longer than 15 seconds in duration is used;
 - c. More than one CED is used against a subject in any given incident; or
 - d. A CED is used against an individual designated to be in a "susceptible population" per section IV.D.2 of this policy.
4. The Use of Force Report (D-99) will be filed to document any use of force incident, as it relates to NYS Executive Law 837-T.

I. Maintenance

1. Testing and maintenance of these devices must be performed in accordance with the manufacturer's specifications and recommendations. Every effort should be made to avoid dropping the devices due to the potential risk of internal damage. The devices should be kept dry as they are water-resistant and not waterproof.

Related Provisions:
05-1 Use of Force