



## **CONDUCTED ENERGY DEVICES GUIDELINES AND LIMITATIONS**

### **Introduction**

Conducted Energy Devices (CEDs)<sup>1</sup> are weapons that constitute an intermediate but significant level of force. CEDs are a new and emerging technology and the science about their effects continues to evolve. Too often CEDs mistakenly are viewed as harmless, non-lethal devices that temporarily incapacitate individuals with little or no risk of harm. Although CEDs are less lethal than firearms, they cause excruciating pain each time they are used. These weapons also pose a risk of serious injuries and death. While such injuries and deaths are rare, their impact on individuals, families, communities, and the involved officers cannot be understated.

For these reasons, it is critical that police officers and law enforcement agencies fully understand the potential risks associated with the deployment of CEDs.<sup>2</sup> It is also critical that any agency that is contemplating adoption of CEDs ensure certain minimum standards are met in the following areas:<sup>3</sup>

- Deployment Planning & Implementation
- Training
- Standards & Procedures for Proper Use (including restrictions and/or prohibitions for use in certain situations and against certain populations)
- Appropriate Medical Care, and
- Reporting, Supervision, & Monitoring.

### **Deployment Planning & Implementation**

- *Confer with community stakeholders.* Prior to deciding whether to implement CEDs, law enforcement agencies should confer with a broad range of community stakeholders, including civil rights and mental health advocacy groups, school officials and parents,

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<sup>1</sup> Tasers, manufactured by Taser International, are one type of CED and currently dominate the CED weapons market.

<sup>2</sup> See Report of the Maryland Attorney General's Task Force on Electronic Weapons, December 2009, for a comprehensive and thoughtful, multi-disciplinary analysis of CED risks, benefits, and best practices associated with the weapons. Many of the Task Force recommendations are reflected herein.

<sup>3</sup> We are indebted to the ACLU of Maryland for its work in promulgating CED best practices recommendations, many of which are reflected herein.

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medical professionals, public officials, and other interested groups and individuals. This will help ensure that community questions and concerns are addressed and considered in deciding whether and/or how to implement a CED program, including what safety and accountability measures may be appropriate.

- *Confer with communities of color.* Consultation with communities of color is critical to ensure that the agency is aware of any particular concerns these communities may have in order to address them effectively.
- *Confer with mental health professionals.* Consultation with mental health professionals is also essential. Police officers are often the first responders on scenes involving mental health crises and traditional law enforcement “command and control” approaches may have an escalating rather than de-escalating effect. Additionally, persons experiencing a mental health crisis may be at heightened risk for serious injury or death following a CED discharge. Law enforcement agencies should work closely with mental health professionals to develop safer and appropriate ways of responding to calls involving mentally ill and emotionally disturbed individuals. Crisis Intervention Teams should be used whenever possible to help minimize the need to resort to use of force.
- *Use phased-in implementation.* If an agency decides to deploy CEDs, it should phase them in using a Pilot Program involving a limited number of officers over a limited period of time. Participating officers should be ones who have a demonstrated history of strong positive community relationships, exercise of good judgment, and judicious use of force. A phased in approach will allow the law enforcement agency to review all incidents closely, to solicit and respond to feedback from officers, subjects, and the community, and to rapidly modify training and policy as necessary.

### **Training**

- *Prohibit exclusive reliance on Taser International training materials.* Agencies should not rely exclusively on Taser International’s training materials to train their officers. Taser International’s training materials focus primarily on technical proficiency, but they do not provide use-of force training. In addition, Taser International’s materials have downplayed the risks of injury and death resulting from CED use.
- *Integrate with training on agency use-of-force policies.* Agencies should train officers on their own use-of-force policies, applicable state and federal law, and on where CEDs fall in comparison to other authorized force options.
- *Educate about the risks of CED use.* During training, officers should be informed that CED shocks may pose physiological risks, including death. Officers should be trained to recognize certain classes of individuals who are likely to be more vulnerable to injury or death following CED use. Agencies should be prohibited from requiring their trainees to be shocked by a CED as part of training or certification. Shocking trainees exposes them to risk of injury or death. If no injury occurs as a result of the shocking, it reinforces the false perception that CEDs are harmless.

- *Include mental health and de-escalation training.* CED training programs should integrate mental health and de-escalation training as part of the officers' use-of-force and CED training. These programs provide officers with additional tools to safely control situations without having to resort to any physical force, including CEDs. The training also should instruct officers on how to address situations where the subject may have difficulty communicating (e.g., the mentally ill, the deaf, non-English speakers, or intoxicated persons).
- *Include Training on Risk Factors and Aftercare.* Agencies should train officers to identify medical conditions that may place individuals at heightened risk of injury or death from CEDs and/or require special aftercare. These conditions include, for example, known heart conditions, old or young age, frailty or small stature, pregnant, mental/medical crisis, or under the influence of drugs or alcohol. Officers should also be trained to not use a CED on a fleeing subject unless there are exigent circumstances.
- *Require re-certification training.* Agencies minimally should require annual re-certification on the use of CEDs, including use-of-force retraining. As part of that process, agencies should review each officer's history of CED use to determine if additional training is necessary or whether re-certification is appropriate. Initial training and re-certification training should require officers to demonstrate a high level of proficiency and should include written testing, performance-based testing, scenario- or judgment-based elements, and other drills.

### **Standards & Procedures for Proper Use**

- *Permit CED use only for imminent threats of serious physical harm.* CED use should only be permitted where there is an imminent threat of serious physical harm to the officer or another individual. CEDs should not be employed as a device to simply gain compliance, even if a subject is being physically evasive or uncooperative. Passive resistance or non-threatening acts such as "tensing" one's arm to avoid being handcuffed, without more, should not justify CED use.
- *Avoid drive stun (pain compliance) use.* Use of the "drive stun" mode should be allowed only in exigent circumstances. In contrast to the "probe" deployment, drive stun mode is designed to gain compliance by causing pain. The drive stun mode should only be used when necessary to complete the incapacitation circuit or when the probe mode has been ineffective and use of the drive stun mode is necessary to prevent imminent physical harm to the officer or others.
- *Brandish only when use is justified.* Agencies should develop clear policies regarding when an officer may brandish a CED. Law enforcement officers should not be permitted to gain compliance by threatening to use a CED in situations where they do not believe a CED would be justified. As with handguns, officers should only be permitted to gain compliance with the CED where use of the CED itself is, or is likely to be, appropriate.

- *Warn before use.* A warning should be given to a subject before the CED is used unless such a warning would place any other person at risk.
- *Prohibit use on handcuffed persons.* Officers should be prohibited from using CEDs against persons restrained in handcuffs unless they pose an immediate physical risk to another person.
- *Transitioning to other force and de-escalation options.* Use-of-force policies should make clear that an officer should not use a CED to shock a subject unless no lesser force option would be effective, and de-escalation and/or crisis intervention techniques would not be effective. This is particularly important when dealing with an emotionally disturbed subject.
- *Restrict CED Use Where Increased Risk of Injury or Death Exists.* To avoid secondary injuries or death, CED use should be permitted in the following situations only in extraordinary circumstances:
  - persons in elevated positions or otherwise at risk of a dangerous fall;
  - persons operating vehicles or machinery;
  - persons who are running;
  - sensitive areas of the body, *e.g.*, upper chest, head/scalp, eyes, mouth, neck, or genitalia;
  - persons who might be in danger of drowning; and
  - persons in flammable environments.
- *Restrict CED use against vulnerable populations.* CED use against the following vulnerable populations should be permitted only in extraordinary circumstances:
  - children (especially younger and smaller children);
  - frail or small statured individuals;
  - pregnant women;
  - the elderly;
  - the infirm;
  - people known to have heart conditions, including pacemakers;
  - people known to be under the influence of drugs or alcohol; and
  - people in mental/medical crisis.
- *Restrict multiple, repeated, or prolonged CED applications.* Multiple shocks and long-lasting shocks appear to increase the risk of serious injury and death. Shocks should be administered for as short a time as possible. When a CED is used, the officer should stop and evaluate the situation after one standard cycle. Before administering an additional shock, an officer should pause to evaluate the situation and determine whether the suspect still poses an imminent threat of significant physical harm. If no such threat is present, no further CED shocks should be permitted. Officers should not deploy multiple CEDs against an individual simultaneously.
- *Prohibit deployment in schools.* Absent extraordinary circumstances, CEDs should not be deployed in schools. In general, children are weaker than adults and are thus both less threatening and easier to control with conventional law enforcement compliance

techniques. At the same time, several studies suggest that CEDs are more likely to cause ventricular fibrillation in smaller people. In addition, children are especially vulnerable to pain and fear, and shocking a child in a school setting, where children are typically protected, is likely to be particularly traumatic.

### **Appropriate Medical Care**

- *Provide emergency medical care immediately after all uses of a CED.* Emergency medical care should be provided immediately after a person is shocked with a CED. If police expect that they will be forced to deploy a CED, they should contact emergency medical personnel to stage in advance.
- *Monitor health of CED subjects while in custody.* All persons subjected to CED use should be closely monitored while in police custody, even after receiving medical care.
- *Avoid impairment of respiration.* Following use of a CED, officers should not employ any restraint technique that could impair the subject's respiration.
- *Access to defibrillators.* Officers who are armed with CEDs should carry a defibrillator in their vehicle, and should be trained on defibrillator use.

### **Reporting, Supervision, & Monitoring**

- *Report all deployments of CEDs.* All deployments, whether intentional or accidental, should be reported in a use-of-force report detailing the events leading up to the discharge. Use-of-force reports should include but not be limited to the following information: date, time, and location of incident; reason for police presence; whether the use of laser dot or display of the CED assisted in gaining compliance; identifying and descriptive information of the subject; level and type of aggression presented; all officers firing CEDs; all officer and other witnesses; the type of the CED and cartridge used; the number of CED cycles; the duration of each cycle and time between cycles; and the length of time the subject was actually activated; the range at which the CED was used; the type of mode used (probe or drive stun); the point of impact of probes; whether the subject was believed to be under the influence of drugs or alcohol or was otherwise impaired; a description of medical care provided; and description of any injuries incurred by officers or subjects.
- *Supervisors should respond to scene of all CED deployments.* To help ensure that each CED deployment is appropriate and to underscore the seriousness of using CEDs, a supervising officer should report to the scene of each CED deployment and assess the appropriateness of the deployment. When possible, supervisors should anticipate situations where CED deployment is likely and respond to the scene as soon as practicable.
- *Investigation following each deployment.* Following every CED deployment, an inquiry should be conducted to review whether the use of force was appropriate, if agency guidelines were followed, and whether any changes in agency policies, training, or

equipment are necessary. All investigations should include: location and interview of witnesses (including all officers involved); photographs of any injuries to officers or suspects; collection of physical evidence including cartridges, probes/prongs, confetti ID tags, and video from the weapon or vehicles if available; copies of the device data downloads; test results of the weapon's operability; and any other relevant information.

- *External investigation following questionable deployment.* An investigation outside the chain of command should occur when: a subject dies or is seriously injured by a CED deployment; a person experiences a prolonged CED activation; or there appears to be a substantial deviation from training or policy, including when a restrained or vulnerable person has been the subject of a CED deployment.
- *Monitor CED use on agency level.* Each agency should monitor CED use using tracking databases. CEDs provide a data recording of each deployment, and some devices record the duration of each deployment. Agencies should download this data periodically and use it to ensure that there are no unreported deployments of the CED and to assess whether any officers are relying on the CED excessively. Agencies should collect and maintain statistics on their use of CEDs. These statistics should be available for public inspection.