



New Bedford Police General Order

Subject ELECTRONIC CONTROL WEAPONS	General Order Number 12-03
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Re-evaluation Date June 2013	___ New <u>X</u> Amends
C.A.L.E.A.	Cross references G.O. 12-02, G.O. 14-06

I. PURPOSE

Electronic control weapons (ECW) are electro-muscular disruptors that override the central nervous system. Such weapons provide officers with another control option. The New Bedford Police Department places the highest value on the life and safety of its officers and the safety of the public. Because of our law enforcement and peacekeeping role, officers will be required at times to resort to the use of physical force to carry out our responsibilities. Police officers are confronted continually with situations requiring or resulting in the use of various degrees of force to affect a lawful arrest, to ensure public safety, or to protect themselves or others from harm. The degree of force used is dependent upon the facts surrounding the situation the officer confronts. Only a reasonable and necessary amount of force may be used. The degree of force the officer is authorized to use is dependent upon the amount of danger or threat to officer safety that the situation presents.

The objective of the use of force is to maintain or reestablish control over a situation, focusing on the recurring need for officers to protect themselves and others and to take actively resisting combatants or violent subjects into custody using tools and tactics that reduce death and injuries. Control is reached when a subject complies with the officer's directions and is restrained or apprehended and no longer presents a threat to the officer(s) or the personal safety of uninvolved individuals. Since an officer will encounter a wide range of behaviors, the officer must be prepared to utilize a range of force options that are reasonable and necessary to maintain or reestablish control by overcoming resistance to the officer's lawful authority while minimizing injuries.

Because there are an unlimited number of possibilities, allowing for a wide variety of circumstances, no written general order can offer definitive answers to every situation in which the use of force might be appropriate. Rather, this general order will set certain specific guidelines and provide officers with an objective basis on which to utilize sound judgment based on continuous training, to make reasonable and prudent

decisions. New Bedford Police Officers must always consider the totality of the circumstances when applying guidelines set forth in this general order, and, in certain situations exigent circumstances may outweigh the recommendation of a specific guideline. Conversely, personnel should always be able to articulate the justification for going beyond agency policy or training.

The purpose of this general order is to provide guidance and direction for New Bedford Police Officers for the lawful use and deployment of the Electronic Control Weapon (ECW), a less-lethal defensive impact weapon. The ECW is not to replace any of the options provided by General Order 12-02, LESS-LETHAL USE OF FORCE, within the New Bedford Police Department use of force policy. The ECW is an additional option available to trained officers. Every sworn officer or student officer will have access to this policy and will be instructed in applicable policies before employing any of the weapons, ECWs or tactics set forth herein. Only department-issued or approved weapons, equipment, and chemical agents will be authorized to be used.

II. POLICY

All officers of the New Bedford Police Department shall use only force reasonable, necessary and proper to affect lawful objectives and effectively bring an incident under control.

Members of the New Bedford Police Department may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily injury. Officers may also use deadly force to prevent the escape and effect the arrest of an individual who the officer has probable cause to believe has committed a felony involving the use, attempted use or threatened use of deadly force and who the officer reasonably believes will cause death or serious bodily injury if apprehension is delayed.

In each individual instance, lawful and proper force is restricted to only that force necessary to control and terminate unlawful resistance and to prevent any further physical attack against the police officers or any person. This would include deadly force, with lethal and less-lethal weapons, specifically the ECW outlined in this general order.

ECWs may be used by authorized and trained personnel in accordance with 501 CMR 8.00 (MPTC Model Plan), and consistent with additional guidelines established herein. All instructors must be certified by the Municipal Police Training Committee or the Colonel of the Massachusetts State Police and will receive training that is consistent with current standards in place by both the manufacturer and the MPTC.

III. DEFINITIONS

Electronic Control Weapon (ECW): A less-lethal defensive weapon designed to disrupt a subject's central nervous system by deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override a subject's voluntary motor responses in order to temporarily incapacitate the subject. One example of an

ECW is the TASER® X26, however, this policy is not limited to this specific brand, make and model of ECW. In the event that the New Bedford Police Department issues an ECW with a different brand/make/model, this policy will apply to any ECW issued by the department.

TASER® X26: A brand name, make and model for an ECW that was authorized for use by the New Bedford Police Department in 2011. This ECW uses propelled wires or direct contact to conduct energy affecting the sensory and motor functions of the peripheral nervous system.

Air Cartridge: The Taser X26 uses a replaceable cartridge containing compressed nitrogen to deploy two small probes that are attached to the Taser X26 by insulated wires. The Taser X26 transmits electrical pulse along the wires and into the body affecting the sensory and motor functions of the peripheral nervous system.

Anti-Felon Identification Tag (AFID): Every time a Taser X26 Cartridge is deployed approximately twenty-four small confetti-like Anti-Felon Identification (AFID) tags are ejected. Each AFID is printed with the serial number of the cartridge deployed; allowing investigators to determine which officer deployed the cartridge.

Drive Stun Mode: The ECW is used, either with or without the air cartridge attached, and the ECW is pressed against the subject, and an electrical shock is delivered.

IV. PROCEDURES

- A. Authorization: Only officers who have been trained and authorized by the Chief of Police may carry the ECW. Except for training purposes, an officer shall not possess or carry an ECW until successfully completing the current M.P.T.C. model training program in the use of ECWs, including requirements for annual re-certification/qualification. The training curriculum for users will be identical to the MPTC.
 - a. Exposure to an ECW could result in injury to personnel, therefore, voluntary exposure to an ECW during training or re-certification is not mandatory.
 - b. All sworn officers, regardless of whether they are trained and issued an ECW, will receive ECW awareness training emphasizing the responsibilities of personnel who do not carry ECWs, attempting to handcuff subjects during ECW application, and transitioning to other force options. This is especially applicable to the Public Information Officer.
 - i. ECW awareness training should be part of neighborhood programs and citizen's police academy classes, and, training for other law enforcement partners as determined by the Chief of Police.
- B. Special Regulation Regarding Electrical Weapons: 501 CMR 8.04 establishes a training requirement for the use of ECWs. In order to qualify for admission

into an approved training program for the use of ECWs, an authorized officer must be currently employed as a state or municipal law enforcement officer; have successfully completed a firearms training course conducted by the Municipal Police Training Committee or approved by the Colonel of the Massachusetts State Police; and be authorized to carry a firearm in the performance of the officer's duty.

C. Weapon Readiness:

- a. The ECW will be carried in an approved holster on the side of the body opposite the service handgun. Officers not assigned to uniform patrol may utilize other department-approved holsters and carry the ECW consistent with department training.
- b. The ECW will be carried fully armed with the safety on in preparation for immediate use when authorized.
- c. Officers authorized to use the ECW shall be issued a minimum of one spare cartridge as a back-up in case of cartridge failure, the need for redeployment, or in case the first cartridge's leads break during engagement.
- d. The spare cartridges shall be stored and carried in a manner consistent with training and the cartridges replaced consistent with the manufacturer's expiration requirements.
- e. Only department approved battery power sources shall be used in the ECW.

D. Deployment:

a. Use of Force Continuum:

i. Drive Stun Mode:

1. In drive stun mode the ECW is a pain compliance tool rather than an electro-muscular disruptor. It is authorized to be used on an actively resistant subject in the same manner as chemical agents.
2. It is minimally effective compared to conventional cartridge-type deployments. The effect of the drive stun is not as long lasting as fired probes. NOTE: pain compliance may not be effective against someone in a state of "mind-body disconnect," as in a mental health crisis, under the influence of a mind altering substance, or extremely focused.
3. While the drive stun mode may be deployed as a pain compliance technique in response to an active resistant person, the drive stun mode should be used to supplement the probe mode to complete the incapacitation circuit, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option.
4. Use of the ECW in drive stun mode requires the officer to come within arm's length of a subject and puts the officer at higher risk compared with firing the ECW.

ii. Firing the ECW:

1. Firing the ECW cartridge to deploy electrodes is a less lethal option it is considered equivalent to the same level of force (level 3/ Active Resistant) and equivalent to the use of Chemical Agents as outlined in General Order 12-2.
 2. It may be used against persons who are exhibiting active resistance.
- iii. Lethal Force:
1. Intentionally firing the ECW at the head or neck is a deadly force countermeasure in response to a lethal threat.
 2. ECW's ARE NOT A SUBSTITUTE FOR LETHAL FORCE. Officers are not expected to respond to a lethal force threat with a less lethal force option such as an ECW.
 3. An ECW may be used in response to a lethal force threat under exigent circumstances as a weapon of available means.
- iv. ECWs are best considered an option in situations where:
1. An officer has other appropriate force options available to deal with the threat;
 2. The officer has moved to a position of advantage such as cover, concealment or barrier, based upon the subject's behavior or weapons; and
 3. An additional officer can safely approach the subject to within effective range to deploy the ECW.
- b. Deployment of ECW:
- i. A full five second cycle deployment should be applied without interruption unless circumstances dictate otherwise.
 1. The five second cycle is a potential "window of opportunity" for an officer to immobilize, control or handcuff a suspect.
 2. Secure the suspect as quickly as possible during or immediately following the period of incapacitation.
 - ii. A second or subsequent five second cycle may be necessary if, after the first five second cycle, the officer still perceives the subject as a threat.
 1. Personnel should consider that exposure to multiple applications, continuous cycling, and exposure to the ECW longer than 15 seconds may increase the risk of death or injury.
 2. Any subsequent cycle applications should be independently justifiable and the risks should be weighed against other force options.
 - iii. Officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.

- iv. The officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective.
 - v. A warning should be given a subject prior to activating the ECW unless to do so would place any person at risk. Warnings may be in the form of verbalization, display, laser painting, or arcing, or a combination of these tactics.
 - 1. When feasible, an announcement should be made to other personnel on the scene that an ECW is going to be activated.
 - vi. Personnel should be aware that there is a higher risk of sudden death in subjects under the influence of drugs and/or symptoms associated with excited delirium.
 - vii. Restraint techniques that do not impair respiration should be used after ECW deployment. If the subject is not already on the ground he/she should be placed there. After being handcuffed, the subject should be placed on their side in the “recovery position.”
 - viii. When possible, emergency medical personnel should be notified when officers respond to calls for service in which it is anticipated that an ECW application may be used against a subject.
 - ix. When the ECW has been deployed in the probe mode, do not release a K-9 dog. If a K-9 bites a probe or bites the subject between the probes, the K-9 can receive a shock. This could have negative impact on future duty use of the K-9.
 - x. The ECW may be used to control an aggressive animal that is threatening officer safety, the safety of any person or attacking another animal. Prior to deployment on a domestic animal, consider having the Animal Control Officer available to restrain the animal. Be aware, animals will usually run away at the end of a five (5) second cycle. A longer cycle may be necessary to maintain control or prevent further attacks.
- c. Target Areas:
- i. Much of the body is a target area, including:
 - 1. The lower-center of mass for frontal shots.
 - 2. The center of available mass for the back.
 - 3. The legs.
 - ii. Avoid aiming at the head or neck unless the encounter justifies a deadly force response.
 - iii. When possible, avoid firing probes at the subject’s chest/breast or genitalia area. Back shots are the preferred area when practical.
- d. Forbidden:
- i. Deployment of the ECW in a punitive or coercive manner.

- ii. Use on a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
- iii. Use 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).
- iv. In any environment where the subject's fall could reasonably result in death or serious bodily injury (such as in water or on an elevated structure).
- v. Should a subject become armed with an ECW and attacks or threatens to attack a police officer who is alone, the officer must defend himself or herself or take actions to avoid becoming incapacitated and risking the possibility that the subject could gain control of the officer's firearm. However, if multiple officers are present, a subject's attack with an ECW against one officer should not in and of itself cause a deadly-force response by other officers.
- vi. ECWs should not be used against subjects in physical control of a vehicle in motion (e.g., automobiles, trucks, motorcycles, ATVs, bicycles, scooters).
- vii. Officers should not intentionally simultaneously activate more than one ECW against a subject.
- viii. Flight should not be the sole justification for using an ECW against a subject. Personnel should consider the subject's threat level to others, and the risk of serious injury to the subject before deciding to use an ECW on a fleeing subject.
- e. Susceptible Population:
 - i. Officers should be aware of the greater potential for injury when using an ECW against certain individuals. ECWs should not be used against:
 - 1. Children, who are known to be, or are obviously under the age of seventeen (17);
 - 2. Adults over the age of seventy (70);
 - 3. Women believed to be pregnant;
 - 4. Persons known to be equipped with a pacemaker; or
 - 5. Persons in obvious ill health.
 - ii. ECWs should only be deployed on these vulnerable groups if the officer's assessment at the time is that the individuals have or will cause immediate bodily injury to themselves and/or others but could be subdued by an ECW.

E. Aftercare:

- a. Probes:
 - i. Probes may be removed from the subject after the subject is restrained.
 - ii. Probes may be removed using the following procedure:
 - 1. Grab the probe firmly with the thumb and forefinger;

2. Pull straight out in a quick fashion;
 3. Use the free hand as a brace;
 4. Follow with alcohol or iodine swipe;
 5. Carefully place used probes, sharp-tip first, into either a sharps container or into the cartridge side wire pocket container, secure in place, and place in a secure location where no one will accidentally touch the probes.
 6. When the probe is removed, check the probe body:
 - a. Insure that the straightened barb is still attached to the probe body:
 - i. There have been a few cases in which the probe was removed from a subject but the pin/straightened barb pulled free of the probe and remained in the skin.
 - ii. If this occurs, transport the subject to a medical facility for barb removal.
 - b. Insure that the probe is intact:
 - i. There have a few cases where the probe tip broke off and the broken tip remained in the skin.
 - ii. If this occurs, transport the subject to a medical facility for tip removal.
 7. Transport any subject to a hospital or medical facility to remove probes embedded in sensitive tissue areas such as neck, throat, face, breast and groin.
 8. Transport any subject to a hospital or medical facility when an officer has difficulty removing the probes.
- iii. Treat used probes as a biohazard
 - a. Use rubber gloves;
 - b. The fired cartridge may be used to safely store and secure used probes;
 - c. Wires should be broken off near the probe; and
 - d. Wires can be disposed of.
- b. Medical Care:
 - i. Seek medical attention for:
 1. A person who requests medical attention. Officers shall ask persons if they desire medical attention.
 2. A person who does not appear to recover properly after being engaged with the ECW.
 3. A person who is in a potentially susceptible population category. See “Susceptible Population” in this general order.
 4. A person who has been energized more than three times.
 5. A person who has had more than one ECW effectively used against him or her in any given incident.

6. A person who has been subjected to a continuous energy cycle of fifteen (15) seconds or more;
 7. A person who has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to ECW exposure.
- ii. All subjects who have received ECW application should be monitored regularly while in police custody even if they received medical care.
 1. Documentation of the ECW exposure should accompany the in-custody subject when transferred to another agency's personnel or until the subject is released from police custody.

F. Reporting:

a. Officer Responsibility:

- i. The deploying officer shall notify his or her supervisor as soon as practical after deploying the ECW and complete a use of force report in the following circumstances:
 1. Spark Display: A non-contact demonstration of the ECW ability to discharge electricity. This is conducted only when the cartridge has been removed from the ECW. The purpose of this display is to convince the subject to comply with lawful commands and avoid the ECW being deployed in the Drive Stun Contact Mode or Probe Deployment mode.
 - a. Spark display checks to test the ECW at the beginning of an officer's shift is not a reportable incident.
 2. Drive Stun Contact Mode: Contact is made by pressing the front of the ECW with an expended / deployed cartridge or without the cartridge against the body of the subject and activating the ECW. The Drive Stun causes significant localized pain in the area touched by the ECW but does not have a significant effect on the central nervous system. The Drive Stun does not incapacitate a subject but may assist in taking a subject into custody by pain compliance.
 3. Probe Deployment Mode: The ECW is most effective when the cartridge is deployed and the probes make direct contact with the subject. Proper application will result in temporary immobilization of the subject and provide the officer a "window of opportunity" in which to take the subject into custody.
- ii. Officers shall specifically articulate the rationale in their use of force report for any instance of the following:
 1. An ECW is energized more than three times on a single subject;

2. An energy cycle longer than fifteen (15) seconds in duration is used against a subject;
 3. More than one ECW is used against a subject in any given incident; and
 4. An ECW is used against an individual designated to be in a “susceptible population.”
- b. Supervisor Responsibility:
- i. Ensure that photographs of the area impacted by the ECW are taken after the ECW is discharged and the probes, if used, are removed. In the event that the impact area includes the buttocks, genitalia or female breast(s), the photographs shall be taken in a private area by a person of the same sex as the subject.
 - ii. Ensure that the subject has received the proper medical attention.
 - iii. Ensure that the officer has completed a use of force report and that a supervisor has completed an injured prisoner report.
 - iv. Ensure that the cartridge(s), wire leads, and probes are collected and not left at the scene. Probes are to be treated as biohazard material and appropriately handled. *See IV E (a)(iii)*.
 - v. When possible, supervisors should anticipate on-scene officers’ use of ECWs and respond to calls for service that have a high propensity for use of an ECW.
 - vi. Division commanders shall review all use of force reports to determine whether the use of force was appropriate.
 - vii. Command staff, supervisors, and investigators shall receive ECW awareness training appropriate to the investigations they conduct and review.
- c. Administrative Responsibility:
- i. Pursuant to Massachusetts General Law Chapter 140 Section 131J, the New Bedford Police Department shall submit a quarterly report to the Executive Office of Public Safety to include the following;
 1. Part I. Agency Level Information:
 - a. How many sworn officers were in the department at the end of this quarter?
 - b. How many officers have completed a training program for ECWs?
 - c. How many officers have been issued an ECW?
 - d. In how many *incidents* was an ECW fired during this quarter?
 - e. How many *times* was an ECW fired?
 - f. How many individuals were the targets of an ECW?
 - g. What is the racial/ethnic composition of the targets of an ECW?
 2. Part II. Incident level information:

- a. Manufacturer and Model #
 - b. Weapon Serial #
 - c. Date of Incident
 - d. Number of times fired
 - e. Target's Gender
 - f. Target's Race/Ethnicity (based on information from question 1(g) above.
- ii. When reviewing downloaded ECW data, supervisors and investigators should be aware that the total time of activation registered on an ECW may not reflect the actual duration of ECW application on a subject.
 - iii. The commanding officer of the Division of Professional Standards, or his/her designee should:
 1. Track ECW activations;
 2. Conduct periodic random audits of ECW data downloads and reconcile use of force reports with recorded activations, and, take necessary action as appropriate when inconsistencies are detected;
 3. Conduct audits to ensure that all personnel who carry ECWs have attended initial and re-certification training;
 4. Collect and analyze information to identify ECW trends including but not limited to: display, laser painting, arcing of weapons to measure prevention/deterrence effectiveness.
 - iv. Periodic analysis of ECW statistics should be made available to the public.

G. Accountability:

- a. Personnel issued ECWs shall take care to safeguard the ECW when it is not under their direct control.
 - i. ECWs may be stored in the officer's locked locker or individually assigned locked desk at any New Bedford Police facility.
 - ii. ECWs may be stored outside of a New Bedford Police facility as long as it is secured in a locked container.

David A. Provencher
Chief of Police

cc: All Divisions and Bureaus
Policy Manual