

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

SUBJECT: SEE BELOW

DATE: December 22, 2021

APPROVED

Memo# 2021-045

SUBJECT

DUTY MANUAL REVISION: L 2614 USE OF ELECTRONIC CONTROL WEAPONS AND REPORTING REQUIREMENTS

BACKGROUND

After reviewing the Department's Duty Manual policy related to Electronic Control Weapons (ECW), applicable case law, the manufacturer's recommended use guidelines, industry best standards, and the current ECW and de-escalation training provided by the Training Unit, it was apparent a revision was needed.

Duty Manual section L 2614 is no longer consistent with the Taser manufacturer's recommended use guidelines. Although Duty Manual Section L 2614 specifies ECWs shall not be used against persons in control of a vehicle in motion, it does not specifically include bicycles or other forms of non-motorized transportation. Every officer who attends a Taser 7 Transition Course or Bi-annual Taser Update Training receives a document provided by AXON entitled, "TASER Handheld CEW Warnings, Instructions, and Information: Law Enforcement." The document recommends that, whenever practicable, officers should avoid using an ECW on persons operating any mode of transportation, conveyance, or machinery. The document also recommends officers avoid using the ECW on persons located in water.

Additionally, the multiple changes and updates to Duty Manual section L 2614 have resulted in text that could cause confusion regarding the application of the procedures. The entire section has been rewritten to ease comprehension, update procedures consistent with industry standards, and update manufacturer use recommendations.

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 2614 USE OF ELECTRONIC CONTROL WEAPONS AND REPORTING REQUIREMENTS:

Revised 12-22-21

~~Only officers who have completed approved training by the Department can carry an Electronic Control Weapon.~~

~~An Electronic Control Weapon can be used by either activating it while pressing the device against a person's clothes or skin, which is referred to below as a Drive Stun Deployment, or by firing the device's Probes at a person, which is referred to below as a Probe Deployment. Some of the policies and considerations relevant to use of an Electronic Control Weapon, described below, apply to both methods of deployment, while others apply to only one method or the other.~~

~~1. Policies and considerations relevant to all Electronic Control Weapon deployments:~~

~~In general, the Electronic Control Weapon is to be used for the shortest period of time reasonably necessary to take a subject safely into custody. Ordinarily, officers should activate the Electronic Control Weapon by pressing and releasing the trigger, producing a five second cycle. In circumstances where a shorter cycle is desired, officers may use the safety to shorten the cycle or, in the case of a Drive Stun Deployment, may discontinue Drive Stun with the subject. With each cycle, an officer should evaluate whether it is reasonable to activate the Electronic Control Weapon again, considering the level of threat that still exists and considering the pain and other potential risks to the subject, if any, associated with its use.~~

~~Unless objectively reasonable based on the totality of the circumstances known to the officers at the time, officers should avoid activating more than one Electronic Control Weapon against a single subject at the same time.~~

~~If circumstances permit, officers should avoid aiming the Electronic Control Weapon at a subject's head, neck, genitalia, or chest.~~

~~The Electronic Control Weapon shall not be used against a subject in physical control of a vehicle in motion unless the circumstances are such that a reasonable officer would conclude that the risk of serious bodily injury or death resulting from subsequent movement of the vehicle is outweighed by the need to capture the subject.~~

~~Generally, use of the Electronic Control Weapon should be avoided when feasible against women who are known to be pregnant, very old or very young persons, physically frail persons and persons with known heart conditions. An example of a circumstance in which it would be reasonable to use the Electronic Control Weapon would be a situation in which an obviously pregnant woman was in the process of harming herself or another person, and more intrusive force would be necessary if not for the use of an Electronic Control Weapon.~~

~~The immediate supervisor of an officer that has deployed an Electronic Control Weapon will personally respond to evaluate and actively participate in the investigation of the Electronic Control Weapon discharge.~~

~~The Electronic Control Weapon has been shown to be an effective tool against aggressive animals. The Electronic Control Weapon may be used against animals if the animal poses a threat to officers or other persons or other animals.~~

~~2. Policies and considerations relevant to a Probe Deployment:~~

~~Electronic Control Weapons play an important role in effective law enforcement. As a tool that can defuse dangerous situations from a distance, the use of an Electronic Control Weapon can obviate the need for more severe force and can help protect officers, suspects, and bystanders. However, a Probe Deployment of an Electronic Control Weapon also has the ability to immobilize or override a person's central nervous system, inflicts considerable pain and, in rare instances, may cause or contribute to death or serious injury. As a result, Probe Deployment of an Electronic Control Weapon should be limited to situations where:~~

- ~~• The subject poses an immediate threat to the safety of officers or others, and~~
- ~~• After assessing as much of the facts relevant to the situation as circumstances permit, a reasonable officer would conclude that the threat presented by the subject outweighs the pain and risks associated with use of the Electronic Control Weapon.~~

~~Officers should attempt to secure the subject as soon as practical while affected by Electronic Control Weapon power or immediately thereafter.~~

~~In general, the Electronic Control Weapon should not be used on subjects exhibiting only passive noncompliance.~~

~~An officer shall not use an Electronic Control Weapon against a handcuffed or secured person, absent overtly assaultive, self-destructive or violently resistive behavior that cannot reasonably be controlled by other readily available means.~~

~~An officer shall not use an Electronic Control Weapon in circumstances where a suspect's fall is likely to cause serious bodily injury or death, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.~~

~~An officer shall not use an Electronic Control Weapon where an officer reasonably believes that a flammable, volatile or explosive material is on the subject or may be affected by the use of the device.~~

~~Officers sometimes encounter highly agitated individuals whose condition may put those individuals at heightened risk of serious injury or death. (See Training Bulletin, March 19, 2007, Management of Subjects in Excited Delirium) Scientific research and law enforcement experience suggest that vigorous physical exertion may increase the risk of injury or death in these individuals. Such exertion may result from an individual's active resistance and the effort of officers to restrain or subdue the individual, which efforts may include the use of an Electronic Control Weapon. There~~

~~are times, however, when despite such risks, a person's actions make it necessary to take the individual into custody. Use of the Electronic Control Weapon may, in some instances, be the preferred method of quickly subduing an agitated and aggressive individual and minimize the subject's physical exertion. However, an Electronic Control Weapon should only be used with such individuals when the person poses an immediate threat of harm that warrants use of the Electronic Control Weapon despite the increased risk to the individual.~~

~~Officers shall refrain from using the Electronic Control Weapon for more than a total of three (3) five second cycles, unless the circumstances are such that a reasonable officer would conclude that each subsequent application of the device, analyzed separately, is warranted by the continuing and substantial threat of harm despite the pain and risks associated with its use. In this assessment, an officer may also consider whether backup officers are present to assist in controlling a dangerous suspect.~~

~~If the subject does not respond to the Electronic Control Weapon deployment in the anticipated manner based on training and experience, officers should consider transitioning to alternative force options.~~

~~Whenever a person has been subjected to an Electronic Control Weapon discharge, an official hospital clearance is obtained prior to the suspect's booking. If the suspect exhibits the need for medical attention at the scene of the arrest, emergency medical assistance is summoned immediately. See DM Section L 2616 (Providing First Aid).~~

~~**3. Policies and considerations relevant to a Drive Stun Deployment:**~~

~~When a Drive Stun Deployment occurs, the Electronic Control Weapon delivers a charge that causes localized pain rather than a disruption of a subject's central nervous system. Prolonged Drive Stun may cause burns and/or permanent scarring and should be avoided. Officers using the Electronic Control Weapon in this mode should regard this application of force as a pain compliance technique and apply the Electronic Control Weapon for the minimum number of cycles and amount of time reasonably necessary to achieve compliance.~~

~~**4. Electronic Control Weapon usage reporting requirements:**~~

~~The use of the Electronic Control Weapon shall be described as follows and will require documentation in a General Offense Report (Form 200-2 AFR) and/or on a Narrative/Supplemental Report (Form 200-3A AFR):~~

- ~~• The Electronic Control Weapon probes are discharged at a subject,~~
- ~~• The Electronic Control Weapon is used in a "drive stun" manner and makes contact with the subject's body or clothing.~~

~~Officers using an Electronic Control Weapon as described above will complete an "Automated Use of Force Template" and will submit a copy of the Electronic Control Weapon download information for the event with the case number noted in the upper right hand corner. These additional reports shall be submitted with all other required reports. Only authorized supervisors will download information from the Electronic Control Weapon.~~

~~Officers that display the Electronic Control Weapon in an attempt to gain compliance from a subject will ensure there is a note in the CAD event indicating the "Electronic~~

~~Control Weapon (or TASER) was displayed.” If the incident would require the officer to write a General Offense Report (Form 200 2 AFR) and/or a Narrative/Supplemental Report (Form 200 3A AFR), the display of the Electronic Control Weapon shall be documented in the report. The display of the Electronic Control Weapon shall be described as follows:~~

- ~~• The Electronic Control Weapon is withdrawn from the holster and displayed to the subject,~~
- ~~• The Electronic Control Weapon is withdrawn from the holster, cartridge removed from the Electronic Control Weapon and the electrical arcing is demonstrated to the subject.~~

~~Officers that only display the Electronic Control Weapon are not required to complete an “Automated Use of Force Template”.~~

~~Electronic Control Weapons and holsters authorized for use by the Chief of Police are listed in DM Section S 1147 (Electronic Control Weapons).~~

Electronic Control Weapons (ECW) have an important role in effective law enforcement as a de-escalation tool that can defuse dangerous situations from a distance, prevent the need for a higher level of force, and help protect officers, suspects, and bystanders.

Officers may use ECW in the following circumstances:

- *When the subject presents an immediate threat of harm to the officer or any other person and the threat presented by the subject outweighs the pain and risks associated with the use of the ECW.*

Or

- *When necessary to take a subject into custody and the level of resistance presented by the subject is:*
 - *Likely to cause injury to the officer or subject;*
 - and*
 - *Hands-on control tactics or other force options would likely cause greater injury to the subject than the use of the ECW.*

1. *Policies and procedures for ECW deployments:*

- *When feasible, officers should give the subject a warning prior to the use of an ECW and wait a reasonable amount of time to discern if compliance has been gained.*
- *The ECW is to be used for the shortest period reasonably necessary to take a subject safely into custody, generally a 5 second cycle.*
- *Officers should attempt to secure the subject as soon as practical while affected by ECW power or immediately thereafter.*
- *Officers shall refrain from using the ECW for more than a total of three (3) five-second cycles, unless the circumstances are such that a reasonable officer would conclude that each subsequent application of the device, analyzed separately, is warranted.*
- *As with the initial discharge, each subsequent ECW activation must be individually justified based on the specific articulable facts reasonably*

known to the officer at the time. In this assessment, an officer may also consider whether backup officers are present to assist in controlling a dangerous suspect.

- If the subject does not respond to the ECW deployment in the anticipated manner, officers should, based upon training and experience, consider transitioning to alternative force options.
- If circumstances permit, officers should avoid aiming the ECW at a subject's head, neck, genitalia, or chest.
- The ECW may be used against animals if the animal poses a threat to officers, other persons, or other animals
- ECW and holsters authorized for use by the Chief of Police are listed in DM Section S 1147 (Electronic Control Weapons).

2. The ECW shall not be used under the following circumstances:

- On subjects exhibiting only passive non-compliance absent any other specific articulable threat that would outweigh the subject's passive resistance.
- Against a handcuffed or secured person, absent overtly assaultive, self-destructive, or violently resistive behavior that cannot reasonably be controlled by other readily available means.
- In circumstances where a suspect's fall is likely to cause serious bodily injury or death, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
- In circumstances where a suspect is located in close proximity to a body of water, unless the circumstances are such that a reasonable officer would conclude that force likely to cause substantial injury or death is warranted.
- Where an officer reasonably believes that a flammable, volatile, or explosive material is on the subject or may be affected by the use of the device.
- On highly agitated individuals whose condition may put those individuals at heightened risk of serious injury or death. There are times, however, when despite such risks, a person's actions make it necessary to take the individual into custody. Use of the ECW may, in some instances, be the preferred method of quickly subduing an agitated and aggressive individual and minimize the subject's physical exertion that may increase the risk of injury or death.
- Against a subject operating or riding any mode of transportation (e.g., vehicle, bus, bicycle, motorcycle, etc.), conveyance (e.g., escalator, skateboard, scooter, rollerblades, etc.), or machinery capable of causing injury unless the circumstances are such that a reasonable officer would conclude that the risk of serious bodily injury or death resulting from subsequent movement of the mode of transportation, conveyance, or machinery is outweighed by the need to capture the subject.
- Against women who are known to be pregnant, very old or very young persons, physically frail persons, and persons with known heart conditions

unless reasonable based on the threat the subject possesses to themselves or others. An example of a circumstance in which it would be reasonable to use the ECW would be a situation in which an obviously pregnant woman was in the process of harming herself or another person, and more intrusive force would be necessary if not for the use of an ECW.

3. Discharge reporting requirements:

- A discharge of an ECW occurs when probes are deployed at a subject or used in a drive stun manner. If the probes or drive stun do not contact a subject the usage still requires reporting.
- All ECW usage will be reported to the officer's immediate supervisor or next higher rank in the chain of command as soon as safe and reasonable. If the officer's immediate supervisor is unavailable, the officer will report the usage to any other available supervisor or next higher rank in the chain of command.
- The supervisor of an officer who has deployed an ECW will personally respond to evaluate and actively participate in the investigation of the ECW discharge.
- The supervisor will review the ECW download information.
- The discharge of an ECW will require documentation in a General Offense Report (Form 200-2-AFR) and/or on a Narrative/Supplemental Report (Form 200-3A-AFR) and an Automated Use of Force Template.
- Officers will obtain and submit a copy of the ECW download information for the event with a Case Number noted in the upper right-hand corner.
- An officer who only displays a de-escalation warning arc is not required to notify his/her supervisor or complete an Automated Use of Force Template. An arc display should be documented in a General Offense Report or Supplemental. If a General Offense report is not required, the officer will note the display in the CAD event.
- Any accidental discharge, not at a subject, shall be reported to the officer's immediate supervisor. See DM section L2617 (Accidental Discharge of an Electronic Control Weapon)

4. Medical Care

- Whenever a person has been subjected to an ECW discharge, an official hospital clearance is obtained prior to the suspect's booking.
- Once a subject is under control, officers will place the subject in an appropriate recovery position.
- Officers shall monitor subjects who have sustained an ECW application while they are in custody.
- If the suspect exhibits the need for medical attention at the scene of the arrest, the officer shall summon emergency medical assistance immediately. See DM section L 2616 (Providing First Aid).

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ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual section.

A handwritten signature in black ink, appearing to read 'A. Mata', is positioned above the printed name and title.

Anthony Mata
Chief of Police

AM:SD:CS