

**MARIN COUNTY SHERIFF'S OFFICE  
GENERAL ORDER**

**CHAPTER 4- WEAPONS  
GO 04-10  
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**DATE: 10/26/2018**

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**CONDUCTED ELECTRICAL WEAPON (X26/X26P – TASER)**

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**POLICY**

The purpose of this policy is to establish guidelines regarding the use of conducted electrical weapons (CEW's) and to promote the safety of deputies and subjects alike. The CEW shall only be used as permitted by this policy.

**DEFINITIONS**

**X-26/X-26P TASER** is a less lethal, conducted electrical weapon (CEW) that utilizes compressed nitrogen to shoot two (2) barbed probes from the weapon. The probes are connected to the weapon by high voltage, insulated wire. When the probes make contact with the target, the CEW transmits an electrical pulse along the wires and into the body of the target. The CEW is made of sonic welded, molded, high impact polymer, and has an integral laser sight. This device can also be utilized as a direct contact stun weapon.

**AIR CARTRIDGE** is a removable plastic cartridge containing two probes, wires, a compressed nitrogen charge, and twenty (20) to thirty (30) small AFID tags. (The AFID tags are small plastic disks that can be traced to the deploying deputy).

**PROBES** are small metal cylinders with a ¼ inch barbed point. The probes are used to transmit the electrical pulses from the CEW into a target's body.

**ELECTRONIC CONTROL DEVICE MONITORING DATABASE** is an access database maintained by the Taser Coordinator that contains an inventory of all the CEW's and air cartridges owned by the Department, their serial numbers, and the location or Deputy to which that equipment has been assigned.

**TASER COORDINATOR** is a member of the Defensive Tactics Team who is a certified CEW instructor specifically assigned to the Coordinator role by the Defensive Tactics Team Sergeant.

**PROCEDURE**

The CEW shall be used in conformance with the current Use of Force Policy, General Order 04-06. The CEW is classified as an intermediate level force option.

Only members who have completed a department approved training course, which includes passing a written test and demonstrating sufficient proficiency in the function and use of the CEW device, are authorized to use or carry it. Re-certification shall be conducted on an annual basis.

Taser X-26/X-26P Conducted Electrical Weapon (CEW's) will be made available to all deputies who have completed the required 8-hour department training course. Deputies assigned to the Patrol Division, will have a Taser X-26P issued to them with two (2) air cartridges. Deputies assigned to a uniformed position outside of the secured portion of the Marin County Jail shall carry the X-26/X-26P CEW, if available, on their person in a department approved holster during their assigned tour of duty. Deputies working in plain

clothes assignments, such as the Investigations Division or the Major Crimes Task Force, will deploy CEW's on an as needed basis. Deputies making court appearances, attending funerals, or engaging in other ceremonial activities are exempted from the "shall carry" rule. CEW's shall be made available to Deputies assigned to the Custody Division, in strategically placed locked boxes located throughout the secured portion of the Marin County Jail.

Department approved holsters shall be worn on the opposite side of the duty belt relative to the handgun. Deputies should not hold a CEW and a firearm at the same time unless use of lethal force is justified. Members may only use department issued CEW cartridges, and when available, shall carry two (2) cartridges affixed to their weapons while deployed in the field.

The Conductive Electrical Weapon Monitoring Database will be maintained by the Taser Coordinator. The Database will list each CEW and air cartridge owned by the Department. The database shall contain the serial number of each CEW and air cartridge assigned to an individual Deputy, including that Deputy's name and badge number. If a CEW is not assigned to an individual Deputy, the database will include which Division, Sub-Station, or work unit each weapon or air cartridge has been assigned to. In the event of an air cartridge discharge, the database shall be updated to record that discharge. The database shall be audited not less than once per year by a designated member of the Professional Standards Unit.

CEW's shall be stored in a secure storage area without an air cartridge loaded in the CEW or in the air cartridge holder. Departmental personnel checking the CEW in or out of the secure storage area shall ensure that the air cartridge is not loaded in the CEW or in the air cartridge holder. If a CEW is found to contain an air cartridge loaded in the CEW or in the air cartridge holder, the deputy signing that particular CEW out shall make immediate notification to his/her supervisor.

A supervisor who has been made aware of the improper storage of an CEW in the secure storage area shall, as soon as practical, determine who signed that particular CEW back into storage so that appropriate remedial training and/or discipline can be facilitated.

#### **PRE-DEPLOYMENT SPARK TEST**

Deputies shall conduct a spark test of their CEW at the beginning of each shift. Deputies deploying a CEW inside the Marin County Jail shall make every effort to conduct a spark test prior to engaging in a situation. CEW's assigned to the Custody Division, shall be checked in/out on a Taser Deployment log as soon as reasonable when dealing with a situation inside the Jail. Taser Deployment logs will be made available to the Custody Division wherever a CEW is securely stowed.

When conducting a spark test, Deputies shall ensure an air cartridge is not loaded in the CEW or in the air cartridge holder. Thereafter, deputies shall conduct a pre-deployment spark test to ensure the CEW unit, and laser aiming device, are functioning properly, and the battery pack has a reading of at least 20% remaining power (one bar on the X26P battery indicator). The spark test shall be conducted with the CEW pointed in a safe direction.

Deputies shall only obtain and load the air cartridge unit(s) after the pre-deployment spark test has been successfully completed. CEW's that do not pass the spark test are to be tagged with an CEW repair form, and sent to the Taser Coordinator so repair of that CEW can be arranged. CEW's are never to be sent for repair while an air cartridge is attached to the device.

#### **PRECAUTIONS**

Discharge of a CEW at a subject may cause slight signature marks which resemble minor surface burns. The skin may appear red or a blister may form. A CEW can cause eye injury if the subject is struck by a probe in or near the eye. Use of a CEW can ignite flammable liquids or gases. Use of a CEW will cause involuntary muscle contractions.

The degree of exertion caused to a person who is subjected to a discharge from a CEW is similar to participating in athletic activities such as weight lifting or wrestling and may result in similar type injuries, such as muscle or tendon strain / tear, joint injuries, stress fractures, or other secondary injuries resulting from involuntary muscle contraction.

Muscle contractions may pose additional risk to certain persons such as pregnant women, especially from injuries that are the result of uncontrolled falls.

Persons subjected to a discharge from a CEW may also suffer secondary injuries caused from falling. Fall injuries, particularly from elevated heights, can pose a risk of significant injury or death. A CEW should not be used against subjects standing at an elevated height whose uncontrolled fall is likely to cause serious injury or death unless the use of lethal force is justified.

Individuals suspected of being under the influence of drugs/alcohol or who are exhibiting symptoms of excited delirium (e.g. nudity, profuse sweating, irrational behavior, redness in the abdominal area) may be more susceptible to collateral problems and should be closely monitored following the application of the CEW until they can be examined by paramedics, emergency medical personnel, or in the case of inmates housed inside the Marin County Jail, by jail nursing staff. In the event a subject suspected of being under the influence of stimulants is subjected to a discharge from a CEW, the subject shall have medical attention as soon after the application of the CEW as practical.

#### **USE OF THE CEW**

Only properly functioning CEW's shall be carried by certified personnel. When the CEW decreases its power life to 40% (two bars remaining on X26P models), a battery replacement of the CEW is recommended. When the CEW decreases its power life to 20% (one bar remaining on X26P models), a battery replacement of the CEW is required.

Authorized personnel may use the CEW when circumstances known to the individual deputy at the time of use indicate that the application of the CEW is reasonable to subdue or control the subject and the use of the CEW is in compliance with Sheriff's Office General Order 04-06, Use of Force. General Order 04-06 describes reasonably necessary force as a use of force that is reasonably necessary in light of the totality of information and circumstances confronting deputies. The totality of the circumstances includes the severity of the crime at issue.

It is recognized that officers are expected to make split-second decisions and that the amount of time available to evaluate and respond to changing circumstances may impact an officer's decision. While various levels of force exist, each deputy is expected to respond with only that level of force which reasonably appears appropriate under the circumstances at the time to successfully accomplish the legitimate law enforcement purpose. Circumstances where the use of the CEW may be appropriate include:

1. A violent or physically resisting subject
2. A subject who demonstrates a likelihood or willingness to actively resist a deputy's attempts to take him/her into custody when:
  - a. The subject has verbally or physically demonstrated an intention to resist, such as having clenched his/her fists as if to deliver a blow, gone rigid as if to prepare to fight, or makes an overt attempt to flee, etc.; and
  - b. The deputy has given the subject a verbal warning of the intended use of the CEW, followed by a reasonable opportunity to voluntarily comply; and
  - c. Other available options reasonably appear ineffective or would present a greater danger to the deputy or subject.

Deputies working within the Marin County Jail shall first obtain approval from an on-duty supervisor before

deploying a CEW inside that facility. Deputies not assigned to the Jail who have reason to enter the secured section of that facility must first secure their CEW in the same manner as a firearm, unless specifically directed to do otherwise by an on-duty jail supervisor.

Although not absolutely prohibited, deputies should give *considerable* additional consideration to the unique circumstances involved prior to applying the CEW to any of the following individuals:

1. Woman who appear to be pregnant
2. Subjects who appear to be elderly
3. Subjects who appear to be frail
4. Small juveniles
5. Individuals who are handcuffed or otherwise restrained.
6. Individuals who have been recently sprayed with alcohol based Pepper Spray or other potentially flammable liquids or who are in close proximity to combustible materials.
7. Individuals whose position or activity may result in collateral injury, such as falls from a substantial height, or into a pool, river, or other body of water, and where, as a result, substantial injury or death could occur.

Use of a CEW in a circumstance described by Section 7 above should not occur unless the use of lethal force is justified.

Close spread CEW discharges to the front of the body are more effective when at least one probe is in the major muscles of the pelvic triangle or thigh region. The preferred target zone for a CEW discharge is the abdominal and thigh region for shots to the front of the suspect's body. A back shot is also within the preferred target zone when practical. Whenever circumstances allow, deputies should aim for the preferred target zone, however, it is understood circumstances beyond the deputy's control may change the target area of a CEW discharge.

Deputies shall not intentionally target a subject's head, face, neck, throat, groin, or spine.

When a deputy does not have an opportunity to discharge his/her CEW at a subject due to unforeseen circumstances, a deputy may drive stun the subject. A drive stun is an alternate technique where an officer presses the electrical contact points located on the front of the CEW to the subject's body. Unless the air cartridge has already been discharged, the air cartridge must be removed from the CEW in order to drive stun the weapon. In the drive stun mode, the CEW discharges electricity through the electric contact points at the end of the weapon in order to gain pain compliance.

Because the application of the CEW in the drive stun mode (i.e. direct contact without probes) relies primarily on pain compliance and requires close proximity to the subject, additional caution should be exercised and deputies should be aware that the controlling effects of the drive stun will end upon termination of the CEW cycle. Deputies should remember that use of the drive stun method will not incapacitate the subject as would be the case when the CEW is discharged in the normal fashion.

Except in extreme situations that involve violently resisting subjects whose actions do not allow for a more deliberate application of the CEW, areas that shall be avoided when applying a drive stun are the head, face, neck, throat, groin, or spine.

The CEW shall never be used solely to torture or psychologically torment an individual.

## **TACTICS**

The wearing and/or displaying of the CEW may, in and of itself, have a desired deterrent effect on potentially hostile subjects during an enforcement contact.

A deputy may remove the CEW from his/her holster, activate the CEW's aiming laser, or display the

CEW's electrical arc if the deputy reasonably believes any or all of those actions may avert a potentially dangerous situation or physical confrontation. In order to avoid an unintentional discharge, a deputy choosing to display the CEW's electrical arc must ensure the air cartridge has been removed from the CEW before engaging that arc. Deputies must also understand that removing the air cartridge from the CEW for this purpose renders the CEW unsuitable for deployment except for purposes of pain compliance in the drive stun mode. Wherever possible, deputies should consider whether a second CEW is available for immediate deployment prior to making the decision to remove the air cartridge from their own CEW for the mere display of an electric arc.

Unless it would endanger officer safety or is impractical due to circumstances, a verbal announcement of the intended use of the CEW should be given in advance of the application in order to provide the subject with a reasonable opportunity to voluntarily comply and to provide other staff with a warning that the CEW may be deployed. If the subject still does not comply, the deputy may elect to display the aiming laser or the electrical arc (if there is not an air cartridge loaded in the CEW) in a further attempt to gain compliance. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair their vision.

The CEW is not a substitute for lethal force. When the CEW is deployed in situations involving deadly weapon(s), it is imperative to understand that deployment of the CEW must be backed up with the immediate availability of lethal force. In these situations, a backup deputy is to directly accompany the CEW user and be prepared to utilize deadly force if reasonably necessary, consistent with all established law and departmental policies and procedures.

#### **MINIMIZING REPEATED EXPOSURES FROM THE ECD**

After the initial CEW cycle, the subject should be evaluated for compliance. Only the necessary number of cycles to affect an arrest shall be used, as prolonged exposure without evaluation for compliance could have adverse effects on the subject's health. Deputies should avoid prolonged, extended, uninterrupted discharges, or extensive multiple discharges of the CEW whenever practicable, as this will minimize the potential for over-exertion by the subject.

If, after a single application of the CEW, a deputy is still unable to gain compliance from an individual and circumstances allow, the deputy should consider whether or not the CEW is making proper contact, the use of the CEW is limiting the ability of the individual to comply with the deputies orders, or if other options or tactics may be more appropriate. However, this shall not preclude a deputy from applying multiple reasonable applications of the CEW on an individual.

Deputies should attempt to limit the number of cycles of stimulation to three or less. However, the totality of circumstances may require a deputy to apply additional cycles of stimulation to prevent an escalation of force and reduce the risk of injury to the subject and deputies.

Examples when more than three cycles of stimulation might occur include, but are not limited to:

1. A solo deputy with delayed cover
2. Continued resistance by the subject
3. Presence of an accessible weapon

These examples are not automatic justification for multiple cycles of stimulation. Deputies must always assess the effectiveness of any force option they employ and escalate or de-escalate as appropriate. A contingency plan should be in place to take the subject into custody. Use of the CEW should be combined with physical restraint techniques to minimize the duration of the struggle and CEW use. Additional deputies on the scene of a CEW deployment should attempt to restrain and handcuff a subject during an active CEW cycle if safe to do so. Failure to begin restraint procedures during a CEW application can unnecessarily prolong the duration or number of CEW applications administered to the subject.

Excited Delirium is a potentially fatal condition caused by a complex set of physiological conditions. When dealing with persons showing signs of excited delirium, use of the CEW should be combined with simultaneous physical restraint techniques to minimize the total duration of the struggle and minimize the total duration of CEW stimulation.

If circumstances preclude restraint procedures during a CEW application, such as a single deputy acting alone, the deputy should attempt to maximize the length of time between CEW cycles and minimize the total number of cycles applied if reasonable to do so. If the subject refuses to comply after multiple CEW device applications, the deputy should consider whether additional applications are making sufficient progress towards compliance/restraint or if transition to a different force option is warranted.

Ultimately, the decision to deploy the CEW, and the method in which it is deployed, must be based on sound professional judgment and the use of only that force reasonable for the tactical situation, as provided by law, and in conformance with departmental policy.

### **MEDICAL TREATMENT AND PROBE REMOVAL**

When a person who has been stunned by a CEW is to be booked into jail, hospital clearance for that booking must be obtained prior to delivering the subject to the jail. After later arrival at the jail, the arresting deputy shall notify jail staff that the CEW was used and provide them a copy of the hospital clearance / discharge paperwork.

When an inmate housed in the Marin County Jail has been stunned by a CEW, jail staff will consult with the Jail's Medical Department to determine whether or not the inmate requires medical attention beyond that available to him/her inside the jail facility.

Whenever possible, deputies shall rely on medical personnel (doctors, nurses, paramedics, EMT's, and/or jail medical staff) to remove CEW probes that are attached to a person. If probes are to be left imbedded in the subject until after the subject has been transported to another location, deputies should avoid transporting the subject in a position that would likely cause the probes to become further embedded in the subject.

Once removed, all probes should be inserted into a sharps container similar to those used to submit hypodermic syringes into evidence. The probes should be dealt with as a biohazard and shall be booked into evidence. Any cartridge and/or probes utilized for training purposes are exempt from the requirement to book those units into evidence.

### **REPORTING PROCEDURES**

Personnel who intentionally display the CEW to a subject in order to gain compliance, or who aim, drive stun, and/or fire the CEW outside of a department approved training class shall follow the guidelines set forth in General Order 04-06, Use of Force. A crime report shall be initiated that will include all of the following:

1. The circumstances leading to the use of the CEW
2. A description of any injuries associated with the use of the CEW
3. Whether or not the use of the CEW had the desired effect
4. The name of the hospital that provided medical treatment, if applicable
5. The name of the attending physician, if applicable
6. The serial number of the CEW and, if used, the air cartridge serial number(s)

If the CEW was deployed within the secured portion of the Marin County Jail, the police report shall also include:

1. The name of the on-duty supervisor who authorized the deployment of the CEW
2. The name of the jail medical staff person who attended the inmate

A copy of the completed crime report shall be routed by the approving supervisor to the Taser Coordinator for review and audit.

Anytime a member intentionally displays a CEW to a subject in order to gain compliance, or who aims, drive stuns, and/or fires the CEW outside of a department approved training class, the member's supervisor shall be notified as soon as practical. Upon such notification, the supervisor should respond to the location of deployment/arrest to ensure compliance with this General Order.

Anytime a CEW is unintentionally discharged, a narrative report shall be written detailing the circumstances surrounding that discharge and the involved member's supervisor shall be notified as soon as practical. The completed report shall be routed by the approving Sergeant to the Taser Coordinator for review and audit.

### **EVIDENCE**

Any CEW cartridge that is expended in field use shall be collected and booked into evidence. This includes the cartridge, wires, and probes. In addition, deputies will attempt to locate and submit a sample of the multi-colored AFID tags which are dispersed at the time the cartridge is fired.

Photographs will be taken of any CEW probe puncture wounds, drive stun sites, and/or any other injuries a subject sustains as the result of a CEW deployment.

Probes that penetrate a person's skin shall be treated as biologically contaminated and secured appropriately prior to being placed into evidence.

After a CEW has been discharged, other than for training or performing a spark test, the data recording that discharge shall be downloaded from the CEW and a printed copy of that download shall be attached to the incident report. If the reporting deputy is unable to perform that data download, the weapon will be provided to a qualified CEW Instructor who will perform the download and attach the subsequent data dump to a supplemental report they shall write.

Each CEW deployment will be reviewed by the Taser Coordinator. That review shall include an audit of the ARS report and the Taser Weapon Summary.

Each CEW that has been deployed to the Custody Division, sub-station, work unit, or Individual Deputy, and shall be subject to a data download not less than annually for an audit conducted by the Taser Coordinator or his/her specific designee. Those audit records shall be retained for the life of the CEW plus ten years.

### **RELATED STANDARDS**

Graham v. Conner, 490 U.S. 386 (1989)

Tennessee v. Garner, 471 U.S. 1 (1985)

Lyonns v. Los Angeles, 75 L.E. D. 2d 675, 692

Burns v. Honolulu, 82 District Court #79-0274 9<sup>th</sup> Circuit Court of Appeals #81-4665

Forrester v. San Diego 25 F 3d 804 (9<sup>th</sup> Circuit Court of Appeals)

Bryan v McPherson, (2009) CA 9<sup>th</sup> Circuit # 08-55622

Medical Study Conducted by D. Daws, MD, J.D. Ho, MD, Academy of Emergency Medicine, March 2007

Penal Code Section 149

Penal Code Section 835a

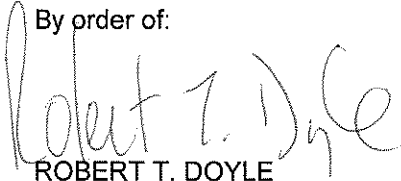
Penal Code Section 836.5

Penal Code Section 843

AFFECTED DIVISIONS:  
All

REVISIONS  
10-20-08  
1-9-09  
11-23-09  
1-15-10  
9-27-10

By order of:

A handwritten signature in cursive script that reads "Robert T. Doyle". The signature is written in black ink and is positioned above the printed name.

ROBERT T. DOYLE  
SHERIFF-CORONER