

# JACKSONVILLE POLICE DEPARTMENT

Policy: 9-3

## ELECTRONIC CONTROL DEVICE

Effective: 01-01-09

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**PURPOSE:** This policy is to direct officers in the appropriate response to resistance with respect to the deployment of the Electronic Control Device (ECD). This policy is for internal use only and is not intended to enlarge an employee's civil liability in any way. This policy should not be interpreted as creating a higher duty of care, in an evidentiary sense, with respect to civil claims by a third party against officers. A violation of this policy, if sustained, is for departmental administrative action in accordance with the laws and policies governing employee discipline.

**POLICY:** When using the ECD, officers will use only objectively reasonable force to bring the subject committing a serious offense under control given the totality of the circumstances; the extent to which the subject poses an immediate threat to the officer(s) or another, and whether the subject is actively resisting arrest or attempting to evade arrest. To properly consider the reasonableness of the force employed, it should be viewed in full context toward the proportionality of force in light of the circumstances. Deploying an ECD is a serious use of force and must be reasonably justified by the officer(s) and/or supervisor authorizing such force.

### DEFINITIONS:

- I. **ELECTRONIC CONTROL DEVICE:** known as ECD, is a device that uses a high-voltage, low power charge of electricity to induce involuntary muscle contractions that cause temporary incapacitation. This includes the TASER® X26 or stun guns that disrupt the central nervous system of the body. ECD's are a less-lethal technology used by law enforcement to reduce reliance on weapons more likely to produce lethal injuries.
- II. **PASSIVE RESISTANCE:** Non-cooperation and other nonviolent methods used as a means to resist authority.
- III. **ACTIVE RESISTANCE:** A subject actively resists when they take adverse action to defeat an officer's ability to take them into custody.
- IV. **OBJECTIVELY REASONABLE:** The amount of force that would be used by other reasonable and well-trained officers when faced with the circumstances with which the officer using the force is presented.
- V. **SENSITIVE AREAS:** For this policy, sensitive areas are considered the face, neck, groin, rectum or the female breast.
- VI. **FIRING MODE:** The ECD when in firing mode will deploy two (2) probes up to a distance of twenty-five feet (25'). It is programmed to deploy up to five (5) second bursts of electricity, although the charge can be prolonged indefinitely if the officer's finger remains on the trigger. The probes are attached to copper wires, which remain connected to the weapon. The shock can be repeated countless times, so long as both probes remain attached to the subject. The ECD contains a cartridge of compressed nitrogen that fires the probes, and which must be reloaded every time the officer wants to fire. It has a laser sight for accurate targeting and a built in memory to record the time and date of each firing. The ECD delivers up to fifty thousand-volt (50,000-v) shock, which is designed to override

the subject's central nervous system, causing uncontrollable contraction of the muscle tissue and instant collapse of the target.

- VII. DRIVE STUN MODE: The ECD when in "drive stun" mode is at point blank range. Rather than causing a complete override of the central nervous system, the weapon is essentially used as a pain-compliance technique. In this mode, the weapon is used without the air cartridge. It applies shocks directly to the subject's body, skin, or clothing. The duration is the same as when the weapon is used in firing mode, up to five (5) seconds, unless the officer keeps his finger on the trigger for longer.

## **PROCEDURE:**

### **I. PERSONS AUTHORIZED TO USE ELECTRONIC CONTROL DEVICES**

Only those who have successfully completed the Department's required training course for the operation of the ECD are allowed to carry and deploy these weapons.

### **II. SAFETY PROCEDURES FOR THE ELECTRONIC CONTROL DEVICE**

- A. Shift Supervisors will be responsible for checking that officers are wearing the ECD properly.
- B. Officers will be responsible for ensuring the ECD is operating properly prior to the beginning of each tour of duty. Officer will conduct a weekly spark test in order to confirm this. The spark test is designed to ensure that the ECD is working, the battery is charged, and the high voltage components are energized. The "Spark Test" procedure is as follows:
  - 1. Point the ECD in a safe direction;
  - 2. Ensure safety switch is on (Safe);
  - 3. Remove the air cartridge;
  - 4. Place safety switch to off (Fire);
  - 5. Again, make sure the air cartridge is removed and the ECD is pointed in a safe direction;
  - 6. Pull trigger to perform a spark test for five (5) seconds. Check for visible spark between electrodes and a rapid spark rate;
  - 7. Ensure the safety switch is placed back to the ON (Safe) position and replace the air cartridge. If the spark test is not satisfactory, replace the battery and repeat, unless using the ECD Camera, then the battery will have to be charged.

### **III. USE OF ELECTRONIC CONTROL DEVICES**

- A. In addition to compliance with Department Policy 9-1 Response to Resistance, all deployments of the ECD as a response to active resistance must comply with the provisions of this ECD policy. Officers shall use only that force that is objectively reasonable given the totality of the circumstances to effectively bring an incident under control.
- B. In the event an officer is disarmed of the ECD by a subject, the officer shall treat the subject as any other person possessing a weapon in a confrontational situation according to Policy 9-1 Response to Resistance.
  - 1. Officers should consider their safety is at risk if the subject threatens or uses the ECD against the officer to incapacitate them, thereby leaving that officer's tool belt containing handcuffs, chemical agent, baton, and handgun compromised for the subject to remove and use against the officer(s) or another person.
- C. If an Officer has not been issued an ECD or if an Officer's ECD is being repaired a Supervisor will sign out an ECD to the Officer at the beginning of shift and are responsible for logging the appropriate weapon information on the check-out log and logging the ECD back in upon return to equipment room.

- D. Officers will advise their Supervisor of any malfunctions or damage they find that need to be repaired.
- E. The ECD shall be carried in the Department approved and/or issued holster. The weapon must be worn on the weak-side for a weak-hand draw.
- F. Officers deploying the ECD should consider the necessity of warning other officers that deployment is about to occur.
  - 1. A warning prior to discharge, saying "Taser, Taser" is preferred but not always necessary for this type of force to be considered reasonable.
  - 2. Giving a warning to a subject that is assaultive toward the officer may enhance the danger to the officer by giving the subject time to avoid the deployment.
- G. When dealing with a passively resistant subject, the officer will attempt to gain compliance by giving the subject verbal instructions. If the subject refuses to comply with the verbal instructions given by the officer, the officer will use soft empty hand control on the subject to attempt to gain compliance. If the subject resists the officer's physical attempt to gain compliance, the subject will be considered to be actively resisting and other less lethal means may be used as the totality of the circumstances dictate.
- H. Officers are prohibited from using the ECD as a punitive measure. No officer will playfully, maliciously or intentionally use the ECD in a display of power against an individual, except to counter an imminent threat.
- I. Officers may use the ECD if they reasonably perceive a subject to be an immediate threat of injury to the officer, other persons, or themselves, is attempting or committing a serious criminal offense, and/or is fleeing or evading lawful arrest for a serious criminal offense. Prior to using the ECD, an officer should take into account the seriousness of the offense and determine whether the use of the ECD is objectively reasonable given the totality of the circumstances. It is recognized that split-second decisions by officers are required at times.
- J. A subject's flight from an officer alone is not justification for the use of the ECD. Officers should consider the nature of the offense, the level of suspicion with respect to the person fleeing, and the risk of danger to others if the person is not apprehended immediately. When using the ECD on a fleeing subject, the officer should consider the availability of (less injurious) alternative methods of capturing or subduing the subject.
- K. Officers may draw the ECD, remove the cartridge and display a five (5) second "spark test" as a deterrent prior to deployment involving large crowds or multiple subjects when it can be done with reasonable safety.
- L. Officers may use the ECD on an aggressive or dangerous animal, and if practical have an Animal Control Officer present or dispatched to render aid to the animal.
- M. Officers shall not use the ECD against a subject who is in physical control of a vehicle in motion unless serious physical injury would be objectively reasonable.
- N. Officers should consider the location and environment of the subject before using the ECD.
  - 1. Officers should avoid using the ECD during incidents where the subject is in an elevated position; such as on a roof, fire escape, bridge, stairwell, etc., where the secondary impact from a fall may cause serious physical injury.
  - 2. Officers should avoid using the ECD on a subject in a body of water that one could reasonably believe sufficient for a person to drown in, if incapacitated.
  - 3. Officers may use the ECD under these circumstances if the use is objectively reasonable to cause serious physical injury to the subject, given the seriousness of the offense committed.
- O. An officer should consider whether the subject has been exposed to combustible elements that may be on their person, such as gasoline or another accelerant. The use of the ECD on a subject under that condition may risk ignition and a fire. Officers shall not use the ECD on a subject in an environment reasonably known to contain combustible materials.
- P. The use of the ECD on a woman who is pregnant may put her at an increased risk of suffering involuntary muscle contractions, thereby increasing the risk that she will fall and damage the

fetus or go into premature labor. Except where pregnancy is fairly advanced, an officer is not likely to know a woman is pregnant, but officers who are aware shall not use the ECD unless serious physical injury would be objectively reasonable given the totality of the circumstances in which the pregnant woman has committed a serious offense.

- Q. Officers should consider the subject's mental illness and physical infirmity prior to using the ECD. The exact health problem or age of a subject may not be known, but officers who are aware of subjects having serious mental illness, physical illness, disability, or being of a certain age shall not use the ECD unless serious physical injury would be objectively reasonable given the totality of the circumstances and seriousness of offense. The following are guidelines to be considered if reasonably known to the officer:
1. The subject has a pre-existing heart condition, osteoporosis, or other serious health condition that may contribute to a secondary injury.
  2. Persons of diminished capacity.
  3. A child under ten (10) years old.
  4. A juvenile, ten (10) years old to seventeen (17) years old.
  5. Elderly adults, aged sixty-five (65) or older.
- R. When an officer reasonably believes that control of a subject will be necessary and is met with resistance, deployment of the ECD should be considered early on in the event so that the subject has not reached a level of exhaustion prior to its use. When practicable, officers should avoid prolonged or continuous exposure(s) of a subject to the ECD. The ECD causes strong muscle contractions, usually rendering a subject temporarily unable to control their movements. Severe exhaustion and/or over-exertion from physical struggle, drug intoxication, or the use of restraint devices, in conjunction with these contractions, may impair a subject's ability to breathe. These guidelines should be followed:
1. Officers should use alternative tactics when they have prior information that the subject suffers from mental illness or physical infirmity such as a disability which may increase the risk of a secondary injury to the subject by using the ECD on them, unless it would be objectively reasonable to cause serious physical injury to the subject based on the seriousness of offense and the totality of the circumstances.
  2. Officers should only use multiple firing cycles when objectively reasonable to do so under the totality of circumstances given the seriousness of the offense.
  3. Officers may use the ECD in "drive stun" mode on a subject after the cartridge has been deployed or in the event of a probe miss or a cartridge malfunction.
  4. When the ECD probes have been deployed and the subject fails to comply and/or continues to be actively resistant, the officer should consider using in "drive stun" mode in conjunction with the probes in a triangular pattern to create a broader affected area on the subject.
    - a. If only one (1) probe connects with the subject, it is recommended for the officer to use "drive stun" mode to make a second connection to attempt incapacitation of the subject for control purposes when reasonably safe for the officer to do so.
    - b. "Drive stun" mode should only be done when reasonably safe for the officer to approach the subject and do so.
    - c. The need for multiple ECD cycles may be avoided by controlling or handcuffing the subject if incapacitated and back-up officer(s) are available.
  5. Officers should not use multiple ECD applications justified solely on the grounds that a suspect fails to comply with a command, absent other indications that the subject is reasonably perceived as an immediate physical threat, or about to flee a serious criminal offense. If the subject has not stopped actively resisting, the officer should use another countermeasure or tactic to gain control, unless serious bodily injury to the subject would be objectively reasonable under the circumstances.

6. When backup officer(s) are unavailable, or the primary officer cannot reasonably wait for a backup, multiple applications may be necessary to gain or maintain control of a combative or dangerous subject.
7. When practical, the primary officer should have at least one (1) back-up officer present to control and handcuff while subject is under the influence of the ECD.
  - a. When feasible the back-up officer should move in and control the subject while the ECD is cycling and the subject is incapacitated.
  - b. The back-up officer should use each ECD cycle as an opportunity to attempt to establish control or handcuff while the subject is affected by the ECD cycle.
8. No more than one officer should deploy the ECD against the same subject at the same time.
  - a. It is recommended the officer deploying the ECD should provide the orders and/or instructions to the subject to avoid confusion during the use of ECD until that weapon is no longer being used on the subject; and
  - b. Officers should avoid giving simultaneous orders or instructions to the same subject at the same time.
9. Officers should be aware that a subject's heavy clothing may impact the effectiveness of the ECD. Alternative tactics may need to be used.
10. Officer's preferred targeting area on a subject is the center mass of the subject's back. However, it is recognized that it is not always possible to get behind the subject.
11. Where back-targeting is not possible, frontal targeting should be lower center mass. Intentional deployments to the chest shall be avoided where possible.
12. An officer shall make reasonable efforts to avoid striking a subject in soft tissues.

#### IV. PROBE REMOVAL (6.07)

Once the subject is under control, an officer will remove the probes using the prescribed methods as follows:

- A. Officers shall wear departmental provided and/or approved latex gloves and remove the cartridge from the ECD, and with a brisk "tug" or pull, remove the probes from the subject. Extreme care should be taken by an officer during removal of the probes and they should be treated as bio-hazard due to possible bodily fluids.
- B. The puncture sites on the subject will be cleaned with an alcohol swab and an adhesive bandage applied by an officer.
- C. If the probes have imbedded in soft tissues, a Supervisor will be notified. Officers shall request an ambulance to take the affected subject to the Emergency Room for the probes to be removed by trained medical personnel. Prior to the ambulance transporting the subject to the Emergency Room, the officer shall remove the cartridge from the ECD and cut the wires separating them from the probes and secure them accordingly for subject to be transported.
- D. After the suspect is taken into custody, officers shall avoid restraining the suspect with their legs behind their back or on their stomachs, as this can contribute to positional asphyxia.
- E. All subjects that have the ECD used on them by an officer shall be monitored for a period of one (1) hour with a focus on symptoms of physical distress, such as breathing difficulty, chest pains, and joint pain.
  1. The Shift Supervisor will be immediately notified if a subject affected by the ECD deployment appears to be under physical distress.
  2. An ambulance will be requested to respond for a medical evaluation/treatment of the subject affected by the ECD deployment once physical distress has become reasonably apparent or the affected subject request medical assistance.
  3. The Emergency Medical personnel on the responding ambulance will make the final determination whether the subject needs to be transported to Emergency Room to be treated by trained medical personnel.

V. REPORTING PROCEDURES (6.03)

- A. Officers will notify the Shift Supervisor immediately following the deployment of the ECD, even if accidentally discharged. A Response to Resistance Report (JPD Form 9-6) will be completed in accordance to Policy 9-6: Reporting Response to Resistance for all uses other than accidental, unless a subject is injured or property damage occurs.
- B. Officers will secure spent cartridges, complete with wires and probes, placing them in the proper bio-hazard containers and securing them as evidence in accordance to Policy 14-1: Collection and Preservation of Evidence, but accidental discharged cartridges, wires, and probes will not be kept as evidence, except in cases of personal injury or property damage.
- C. The Shift Supervisor is responsible for ensuring that photographs are taken of the subject depicting injury or the lack of injury. Photographs shall be taken with the probes in the subject and following their removal.
- D. The shift supervisor is responsible for ensuring that the ECD is properly stored and sent to the Support Services Division's Training Unit or an ECD Instructor for proper download of the memory for a record of the firing cycle(s).
- E. The Shift Supervisor is responsible for ensuring that all reports are complete and accurately submitted in accordance to Policy 9-6: Reporting Response to Resistance. The completed packet is to be forwarded through the chain of command to the Office of the Chief of Police.

VI. SUPERVISION (6.03)

- A. Shift Supervisors will ensure that the Support Services Division's Training Unit is notified following a response to resistance incident or accidental use of the ECD.
- B. The Support Services Division Training Unit shall be responsible for ensuring that all ECD data is being downloaded and stored for evidentiary purposes and/or administrative reviews.
- C. Supervisors will account for the ECD in the equipment room at the beginning of each shift.
- D. Supervisors will report all malfunctions of the ECD to the Support Service Division's Training Unit.

VII. ADMINISTRATIVE REVIEW (6.03)

All ECD incidents will be reviewed for compliance with Department policies at each level of the officer's chain of command. The purpose of this review is to determine:

- A. If training methods or policies need to be changed or developed.
- B. If the involved officer needs remedial training or corrective action.
- C. If there is a need for additional in-service training.
- D. The Division Commander will review the recommendations and if necessary make additional comments or recommendations. The results of the review and any recommendations will then be forwarded to the Office of the Chief of Police for final review.
- E. Every response to resistance incident will be reported as outlined in Policy 9-6: Reporting Response to Resistance.
- F. The Office of Professional Standards will conduct an annual analysis of the Response to Resistance reports submitted the previous year. This will be done so as to reveal patterns or trends that could indicate training needs, equipment upgrades, and/or policy modifications that should be addressed by the Department.

VIII. POLICY DISTRIBUTION

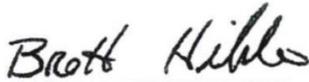
- A. Prior to being authorized to carry the ECD, all Department personnel will be issued copies of this policy and be instructed on it.

B. Issuance and instruction will be documented in Department training records.

IX. TRAINING (3.04)

- A. All Department personnel who are authorized to carry the ECD will receive at least annual in-service training on the Department's Response to Resistance policies and demonstrate proficiency with the ECD, such as the TASER® X26.
- B. All proficiency training must be monitored by a certified instructor in regards to each ECD.
- C. All training and proficiency shall be documented and kept in the Department training records.

ALEAP: 3.04; 6.03; 6.07



Brett C. Hibbs  
Chief of Police