



DIRECTIVES

Oak Creek Police Department

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Title:

ELECTRONIC CONTROL DEVICE POLICY

Directive Number:

6-300

Critical Policy

Yes No

Open Record

Yes No

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Applicability:

Sworn Officers

I. PURPOSE

It is the purpose of this directive to provide officers with guidance on when and how to use this Department's authorized Electronic Control Device.

II. POLICY

It is the policy of the Oak Creek Police Department that officers shall use only that amount of force that is reasonably necessary to achieve a lawful objective. One such lawful objective is to control or subdue violent or potentially violent individuals. Therefore, the Oak Creek Police Department has adopted a less-lethal force philosophy to assist with de-escalation of those potentially violent confrontations. As part of this less-lethal philosophy, the Oak Creek Police Department authorizes the use of a department-authorized Electronic Control Device (ECD). The primary purpose for employing the ECD is to save human lives. The ECD has been placed within Mode C (Control Alternatives) under the tactic of Electronic Control Devices with the purpose to overcome active resistance or its threat. The ECD can be used as an alternative to employing deadly force in situations where time and circumstances exist for ECD use. It should be remembered that not all situations where deadly force is justified can the ECD or other less-lethal alternatives be utilized due to time, special relationships, officers on the scene and other specific situational facts. The ECD is not intended to be used as a general substitute for other less-lethal/non-lethal force options.

III. DEFINITIONS

- A. *Less-Lethal Force Philosophy* – A concept of planning and force application which meets operational objectives with less potential for causing death or serious physical injury than conventional police tactics.
- B. *Defense and Arrest Tactics (D.A.A.T.)* – This is a system of verbalization skills coupled with physical alternatives. It is the specific system formulated and approved, and governed by the State of Wisconsin Training and Standards Board.
- C. *Intervention Options* – The base list of intervention options/techniques recognized in the D.A.A.T. system (see Department Use of Force Policy #6-100).
- D. *Reasonable Force* – A physical act by a police officer in the performance of duty which is used to accomplish a legitimate law enforcement goal and the level of force used is reasonable considering all the facts and circumstances known to the officer at the time of the incident.

III. DEFINITIONS - *Continued*

- E. *Reasonably Believes* – Means that an ordinary, prudent, and reasonably intelligent police officer believes that a certain fact situation exists and such belief is reasonable under the circumstances known to the officer at the time the officer acted.
- F. *Non-Deadly Force* – An amount of force that, under normal conditions, might cause bodily harm but would not be expected to result in great bodily harm or death.
- G. *Electronic Control Device (Axon's CEW - Conducted Electrical Weapon)* – A less-lethal device utilized by trained personnel that causes Neuro-Muscular Incapacitation to a combative or potentially combative subject (a potentially combative subject is someone who is actively resisting, being physically assaulting or threatening a physical assault). The use of this device is intended to overcome active resistance or its threat with minimal potential for causing death or great bodily harm. This Department utilizes the Taser International X-26P and X-26 units.
- H. *Sensitive Areas* – Areas that, if an ECD dart impacts with, officers should stabilize the dart and subject and allow medical personnel to remove. The sensitive areas are a subject's head, neck, a female's chest region, the buttocks and groin area.
- I. *Neuro-Muscular Incapacitation* – The patented technology of Axon that allows the Taser to use electrical impulses similar to those in your body's nervous system to cause stimulation of the sensory and motor nerves. NMI occurs when the CEW is able to cause involuntary stimulation of both the sensory nerves and the motor nerves.

IV. PROCEDURE

A. Electronic Control Device and Evaluation

1. This Department recognizes the Axon X-26P and X-26 ECD as the Department's ECD less-lethal option. The decision to implement this unit resulted from this Department's evaluation of the X-26P and X-26 founding of no permanent damage along with the manufacturer's claim that no permanent damage would result from deploying it under normal conditions. However, precautions in its use shall be in accordance with the provisions of this policy.
2. The Axon Taser X-26P does not depend on damage or destruction of tissue or organs to be effective. The Axon Taser X-26P and X-26 fires two darts connected to the device by fine wires. Once in place, simple electrical impulses that are quite similar to those impulses used by the human body for communication, overrides the nervous system signals and causes a subject to lose control of their neuromuscular system and prevents them from performing coordinated actions (violent actions). The subject should normally be immobilized and dazed long enough for officers to gain control of the subject and apply restraints.

B. Training

1. Only officers who have successfully completed the Oak Creek Police Department's approved end-user course of instruction on the X26P and X-26 ECD's are authorized to use it in situations where its application is appropriate.
2. Officers of this agency shall receive refresher training in the use and performance of the approved ECD's on an annual basis.

IV. PROCEDURE – *Continued*

C. Deployment

1. Trained Department personnel may utilize the approved ECD when a subject is threatening to actively resist or is actively resisting an officer and the risk associated with closing the distance on the subject to take control makes other alternatives unsafe or those other alternatives (i.e., other Control Alternatives or Protective Alternatives, etc.) would be ineffective in subduing the subject. This option may also be used when a person poses a threat of harm to self or others and unarmed tactics have been exhausted or would not be effective or safe given the circumstances known to the officer at the time. The ECD should be utilized by deployment of the darts from the cartridge or using the drive stun mode as a back-up. When deploying in either mode, officers should follow end-user Department ECD training.
2. Examples of situations in which the ECD may be used include, but are not limited to, the following:
 - a. dealing with a mentally ill subject who is reasonably believed to be violent;
 - b. armed subjects or those reasonably believed to be armed (officers must deploy with lethal cover);
 - c. violent persons under the influence of drugs/and or alcohol or reasonably believed to be under the influence;
 - d. persons expressing the intent and having the means to commit suicide;
 - e. warrant services where the subject is reasonably believed to be violent;
 - f. when deemed a reasonable alternative to lesser force options that will likely be ineffective or greater force options that may be inappropriate given objective circumstances;
 - g. when other force options have a greater propensity for causing injury and less propensity for control, given the fact situation in contrast to the ECD.
3. Officers may also include in the decision to use this force option information known to the officer at the time of the incident. Such information may include conduct, statements of the subject or a prior history of resistive or assaulting behavior.
4. Mere passive resistance (e.g., refusal to comply with verbal commands, going limp, etc.) does not permit the use of an ECD without word and/or actions showing intent to actively resist or physically harm the officers, others or subject him/herself.
5. Officers shall not brandish or feint the ECD as a threat unless its use is justified and anticipated. If an ECD is displayed, it shall be pointed in a safe direction. If an officer is going to display the ECD while activated, it shall be done with due caution.
6. The ECD shall not be used under the following circumstances:
 - a. When the operator cannot, for safety reasons, approach the subject within the effective range of the ECD or the intended target of the ECD is obstructed or impeded by other subjects or barriers.

IV. PROCEDURE – *Continued*

- b. If a subject is covered with or in proximity to flammable liquids, gases, meth labs, blasting materials or any other highly combustible materials that may be ignited by use of the device including, but not limited to, any subject who may have been contaminated with combustible liquids.
 - c. When it is reasonable to believe that incapacitation of the subject may result in serious injury or death (e.g., incidents as noted in Section C(7) below and situations where a subject's fall may result in serious injury or death).
 - d. **In conjunction with another ECD (only one ECD should be used at one time on a subject).**
 - e. The ECD should not be used when assisting another agency or on mutual aid if that agency has used OC spray on the subject. This is due to the possibility that the outside agency may be using an OC product containing a flammable carrier which the officer may not be aware of.
7. Except in circumstances where deadly force would be justified, officers should not use an ECD on the following subjects: (It is recognized that complete knowledge on the presence of these conditions among persons confronted by the police is normally not available, but if officers know of or suspect the presence of any of these conditions, as a precautionary measure, the ECD should not be used.)
- a. persons in **wheelchairs** or in control of a **vehicle**;
 - b. ***visibly pregnant** women;
 - c. ***people with known heart problems**;
 - d. ***people with an apparent debilitating illness** or the **elderly** (an elderly person would be one whom an officer reasonably believes to be 65 or older);
 - e. ***children or those estimated to be less than 80 lbs.** (due to their weight, this Department has set this limit to protect against any possible unexpected injuries);
 - f. ***individuals with known neuromuscular disorders** such as **muscular sclerosis, muscular dystrophy or epilepsy**.
 - g. ***persons known to be wearing pacemakers or other biomedical devices sensitive to electrical current.**
- *Due to these individuals' conditions, this Department has created a higher standard to protect these individuals from any unseen injury.**
8. An officer shall be armed with an ECD when the officer reasonably believes he/she will be answering calls for police service or making contact with citizens.

IV. PROCEDURE – *Continued*

9. In each instance where an ECD is deployed, the officer deploying should determine whether lethal cover is needed, but it is **highly recommended to have lethal cover whenever an ECD is deployed.**
 - a. Lethal cover is required in all cases in which the subject possesses a firearm and/or an edged weapon.
10. For maximum effectiveness and to ensure that the two probes make contact with the subject, the ECD should be fired at lower center mass from the front, and center mass from the back when possible, unless thick clothing is present. If thick clothing is present, then aiming for the legs may be an option.
11. The ECD and the ECD cartridges shall be carried in their assigned and issued holsters until needed and not carried in pockets or in any fashion that could cause static electricity, which may cause discharge and serious injury. An exception to this is the pouch holster sewn into the optional outer carrier vest. This pouch is designed in the same fashion as the leg holster.
12. Officers do have the option of purchasing their own department-approved ECD holster that attaches to their duty belt. This will be worn in a “cross-draw” fashion as to how the department-issued leg holsters are utilized. This ‘belt-worn’ holster must be placed on the duty belt in a manner that will keep it at least two (2) tools away from the officer’s portable radio (i.e., radio, flashlight, baton, and then the Taser). This will assist with preventing any accidental discharges due to possible static build-up.
13. The ECD can be utilized in the drive stun mode when circumstances are appropriate for such an application. The probes shall be deployed from the cartridge and the drive stun be utilized as a back-up option. Officers should follow all Department policies and End User Taser Training when deploying the Taser in this mode.

D. After Care

1. Department personnel who use the ECD weapon against a person shall restrain the subject as soon as tactically feasible and conduct an initial medical assessment of the subject.
2. Unless circumstances dictate otherwise, the subject should be restrained while the ECD is deployed—known through training as “cuffing under power”—while the ECD creates a “window of opportunity” to take the subject into custody.
3. **All subjects (not to include ECD training) who have an electronic control device utilized on their person in either the "drive stun mode" or "dart deployment" shall have an initial medical assessment done by an Oak Creek Police Officer. Officers shall also request an ambulance to have the subject medically checked by the Oak Creek Fire Department. It will be up to the individual if they are transported to the hospital unless an officer observes or is notified of symptoms of excited delirium or other serious medical situations. The officer will, at that time, require the subject to be transported for medical clearance at a hospital for their safety. The deployment of an ECD on someone should not be the sole reason for transport unless the subject requests it.**
4. Individuals who will be transported to the Criminal Justice Facility or Milwaukee County Mental Health Facility and have had an electronic control device utilized on their person in any manner will be required to be medically cleared (Per Milwaukee County policy and CJF’s Policy).

IV. PROCEDURE – *Continued*

E. Dart Removal

1. Officers are authorized to remove ECD darts that penetrate an individual's skin in non-sensitive areas.
2. Officers shall wear protective rubber gloves when removing an ECD dart.
3. If an officer believes he or she cannot safely remove the dart or if it has penetrated a sensitive area (i.e., head, neck, a female's chest, buttocks and groin area), the dart and the subject should be stabilized in order to avoid injuries prior to the removal of the dart, and OCFD shall be requested.
4. Officers shall remove the dart in the manner trained in the ECD end-user course.
5. ECD darts that are removed from a subject shall be handled as biohazard and packaged according to trained procedures.
6. The properly-packaged cartridge and darts will then be placed in evidence and the wound site should be photographed, if practical. The packaged cartridge will remain in OCPD evidence storage for three years.
7. If a person is not incapacitated, the air cartridge and wires should still be packaged for analysis.

F. Documentation

1. When an ECD has been used against a person or animal, the user shall notify an on-duty supervisor and a Use of Force Report shall be completed, along with all normal written reports, documenting the incident.
2. The on-duty supervisor shall complete the Use of Force Report. If there is a use of the E.C. D. outside of normal uses, or there was a serious injury resulting from the ECD use, the on-duty supervisor will notify the Operations Captain and Administrative Captain of the incident.
3. With the exception of training and "spark" tests during squad checks, all instances of ECD usage, including any accidental discharge, shall be reported on this agency's Use of Force Report.
4. The investigating supervisor shall include the following information in the Use of Force Report in addition to other requested information:
 - a. which ECD was used (i.e., #1, #2, #3);
 - b. the approximate distance the ECD was fired from the subject;
 - c. locations of impacts and whether the probes penetrated skin;
 - d. the number of cycles applied or estimated time ECD was allowed to cycle;
 - e. evaluations of effectiveness of the ECD;
 - f. notify the UOF Taser instructors and request a download of the Taser used.

IV. PROCEDURE – *Continued*

G. Maintenance and Carrying of Electronic Control Device

1. Supervisor Responsibilities

- a. Each Oak Creek Police Department officer working on the road will have an ECD assigned to them, which will depend on the squad car they are assigned for their shift. The lead Taser Instructor, or another qualified Taser Instructor assigned by the Lead Instructor, will be responsible for regular function checks and maintenance.
- b. The Taser units that are to be issued to patrol will be kept in the squad ready room in its assigned carrier. If there are any problems with a Taser unit or a Taser is deployed in an actual situation, the shift supervisor shall place a maintenance tag (with their initials and the problem) on the Taser unit in question and place the unit on the “**Repair/Maintenance**” shelf inside the Taser cabinet located in the patrol storage room. An e-mail message should then be left for the Taser Instructors regarding the problem.
- c. An overall maintenance check will be conducted every six (6) months by the lead Department Taser Instructor or another qualified Taser Instructor assigned by the Lead Instructor. Any irregularities or malfunctions found during this inspection will be forwarded in memo form to the Lieutenant and Captain who oversee the Training Unit.

2. Officer Responsibilities

- a. Officers should check the ECD prior to their tour of duty to ensure an appropriate battery life, 20% or greater. If less than 20% battery life remains, the Officer will notify his/her supervisor, and have a new battery placed into the ECD
 - b. Officers shall keep their ECD on their person during their entire shift and not allow the unit to sit loose in the squad during their shift. It shall be carried in its holster on their reactionary side leg (this style of carry will cause the officer to have to draw the ECD weapon in a cross-draw style and avoid an accidental drawing of their duty weapon under stress), the duty belt holster, or the outer carrier vest holster. K9 officers shall carry their Taser on the reactionary side, but are permitted to draw the Taser with their reactionary hand. This is due to the possibility of maintaining control of the K9 with their strong hand.
 - c. Officers will ensure that the ECD is in the designated location in the squad ready room at the end of their shift.
3. After each discharge, the lead Taser Instructor shall be notified with an e-mail regarding which Taser was used and that he/she needs to clean the firing bay with a dry cloth to prevent build-up of carbon and potential firing complications. A new Taser will have to be issued until the used unit can be properly maintained by the lead Taser Instructor. The used Taser should be tagged by a supervisor with an evidence tag indicating its need for maintenance.
 4. After each use, the X-26 and X-26P ECD will be checked for proper battery level.
 5. The ECD's should not be left in direct sunlight.
 6. The ECD cartridges should be stored in a cool, dry environment.

V. DISCLAIMER

The Electronic Control Device Policy developed by the Oak Creek Police Department is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety and care in an evidentiary sense with respect to third party claims. Violations of the Electronic Control Device Policy can only be the basis of a complaint by this department, and then only in non-judicial administrative setting.

REFERENCES:

- Use of Force Policy #6-100
- Firearms Policy #6-200
- Department Less Lethal Training Curriculum
- Department Electronic Control Device Training Curriculum
- TASER International Training Curriculum
- State of Wisconsin addition of Control Devices

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Policies/Electronic Control Device Policy